

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 18-CR-00538(MKB)
:
:
-against- : United States Courthouse
:
:
February 14, 2022
9:30 a.m.
NG CHONG HWA, :
:
Defendant. :
- - - - - X

TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
BEFORE THE HONORABLE MARGO K. BRODIE
UNITED STATES CHIEF DISTRICT JUDGE

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1 (In open court; jury not present.)

2 THE COURT: Please be seated, everyone.

3 Are we ready to proceed?

4 MR. ROLLE: Yes, Judge.

5 MR. AGNIFILO: We are.

6 I had a quick question about protocol.

7 THE COURT: Sure.

8 MR. AGNIFILO: Masks when we speak or no masks?

9 THE COURT: Well, you do have to wear your masks.

10 Does anyone have the clear shield?

11 MR. AGNIFILO: I don't.

12 THE COURT: So the only thing the epidemiologist has
13 advised is that you can go without your mask if you're in --
14 well, if you are separated by that, and there's a HEPA filter,
15 which I believe we have in the courtroom.

16 MR. WIBLE: We have two.

17 THE COURT: All right. I will allow you to unmask
18 for purposes of the address to the jury.

19 MR. AGNIFILO: But we have to be behind the glass?

20 THE COURT: You have to be behind the glass.

21 MR. AGNIFILO: Okay.

22 THE COURT: And when you are questioning the
23 witness, I believe we should all wear our masks.

24 MR. AGNIFILO: Very good.

25 THE COURT: Okay?

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1 MR. AGNIFILO: Yes, Judge.

2 THE COURT: Unless it becomes a challenge, then
3 we'll discuss it further.

4 Everyone is ready to go?

5 THE COURTROOM DEPUTY: Yes, Judge.

6 THE COURT: Okay.

7 The jurors are all ready. Are the parties ready to
8 proceed?

9 MR. AGNIFILO: Yes, Your Honor.

10 THE COURT: Who is opening for each side?

11 MR. AGNIFILO: I'm opening on behalf of defense.

12 MR. WIBLE: I will open on behalf of the Government,
13 Brent Wible.

14 THE COURT: All right.

15 Why don't you call the case, and then we'll bring
16 the jury in.

17 THE COURTROOM DEPUTY: Criminal cause for trial,
18 docket number 18-CR-538.

19 Counsel, please state your name for the record
20 starting with the Government.

21 MR. ROLLE: Good morning, Your Honor.

22 Drew Rolle, Alix Smith, Dylan Stern, Brent Wible,
23 and Jennifer Ambuehl for the Government. We are joined by
24 Paralegal Specialist Daniel Youkilis and Special Agent Sean
25 Fern from the FBI.

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1 THE COURT: Are your mics on?

2 MR. ROLLE: I can repeat that if the court reporter
3 needs it.

4 THE COURT: Why don't you have a seat so we can make
5 sure the mics are working.

6 MR. ROLLE: Yes, I think the mic is on.

7 THE COURT: It is. Why don't you repeat your
8 appearance for the record.

9 MR. ROLLE: Drew Rolle, Alix Smith, Brent Wible,
10 Jennifer Ambuehl, Dylan Stern for the Government. We are
11 joined by Paralegal Specialist Daniel Youkilis and Special
12 Agent Sean Fern of the FBI.

13 THE COURT: Okay. Thank you.

14 MR. AGNIFILO: Good morning, Your Honor.

15 You have Marc Agnifilo, you have Teny Geragos, you
16 have Zach Intrater, you have Jacob Kaplan, you have Jennifer
17 Silverstein, and we have our client here today, of course,
18 Mr. Roger Ng.

19 THE COURT: Yes.

20 MR. AGNIFILO: Good morning, Your Honor.

21 THE COURT: Good morning, to everyone.

22 We are going to bring the jurors in. They are
23 coming in through that entrance to the side of the courtroom
24 behind you, Mr. Agnifilo; and I encourage the parties to
25 please remember to utilize the mics, since we are streaming to

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1 another room for public access --

2 MR. AGNIFILO: Very good, Your Honor.

3 THE COURT: -- and we want to make sure that the
4 public does have access to the proceedings. Okay?

5 MR. ROLLE: Judge, before we bring the jury in, we
6 did want to raise one question relative to openings --

7 THE COURT: Okay.

8 MR. ROLLE: -- which was, the Government had raised,
9 I think, a couple status conferences ago, the relevance of Jho
10 Low's status as a fugitive. Counsel had not gotten back to
11 the Government about their determination on that.

12 THE COURT: I thought I already ruled on that, that
13 his --

14 MR. AGNIFILO: We're not getting into it.

15 THE COURT: Yes.

16 MR. ROLLE: That should be fine, then, Judge.

17 THE COURT: Okay. And we will follow up as
18 necessary later on today.

19 Bring in the jury, Winnie.

20 THE COURTROOM DEPUTY: All rise.

21 (Jury enters.)

22 THE COURT: Please be seated, everyone.

23 Good morning, members of the jury.

24 Is the jury acceptable to the parties?

25 First, to the Government?

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1 MR. ROLLE: Yes, Your Honor.

2 THE COURT: The defense?

3 MR. AGNIFILO: Very much so, Your Honor.

4 THE COURT: Please stand. I'm going to have you
5 sworn.

6 THE COURTROOM DEPUTY: Please raise your right hand.
7 (Jury sworn.)

8 THE COURTROOM DEPUTY: Thank you.

9 THE COURT: Please be seated.

10 Members of the jury, now that you are about to begin
11 the criminal case of U.S. versus Ng, and you have been sworn,
12 I have some preliminary instructions to guide you in your
13 participation in the trial.

14 To begin with, you are here to administer justice in
15 this case according to the law and the evidence. In deciding
16 this case, you must not be influenced by any personal likes or
17 dislikes, opinions, prejudices, sympathy, or biases, including
18 unconscious bias. Unconscious biases are stereotypes,
19 attitudes, or preferences that people may consciously reject
20 but maybe express without conscious awareness, control, or
21 intention. Like conscious bias, unconscious bias, too, can
22 affect how we evaluate information and make decisions. You
23 are to perform your task with complete fairness and
24 impartiality, and without bias, prejudice, or sympathy, for or
25 against the Government or Mr. Ng. This is important for

1 Defendant Roger Ng who is charged with three crimes and has
2 the constitutional right to receive a fair trial. This case
3 is also important to the Government, since the enforcement of
4 the criminal law is important.

5 The case, as you learned during jury selection, is
6 based on an indictment, which I discussed with you, charging
7 Mr. Ng with conspiracy to violate antibribery provisions of
8 the Foreign Corrupt Practices Act, conspiracy to circumvent or
9 intentionally evade the internal accounting controls or
10 protocols of Goldman Sachs, and conspiracy to commit money
11 laundering.

12 As I have already advised you, an indictment is the
13 document by which a criminal action is commenced. It is
14 merely the accusation, a charge; it is not evidence of
15 Mr. Ng's guilt. It will be your duty to find from the
16 evidence what the facts are. You, and you alone, will be the
17 judges of the facts. You will then have to apply to those
18 facts the law on which I will instruct you. You must follow
19 the law whether you agree with it or not. From time to time,
20 legal issues may arise, which are of no concern to you. You
21 decide the facts, but I decide the law. These issues may make
22 it necessary for me to confer with counsel either at sidebar,
23 or to excuse you from the courtroom. Please do not take
24 offense at this or speculate on what we are discussing.
25 Nothing that I may say or do during the course of the trial is

1 intended to indicate or should be taken by you as indicating
2 what your verdict should be. At times, I may ask questions.
3 If so, it is for the purpose of clarification. It is not in
4 any way to indicate an opinion about the facts or to indicate
5 the weight you should give to the testimony of that witness.

6 Now, there are three basic rules about a criminal
7 case that you must keep in mind. First, the defendant, Roger
8 Ng, is presumed isn't until proven guilty. Again, the
9 indictment brought by the Government against him is only an
10 accusation. Nothing more. It is not proof of guilt or
11 anything else. Mr. Ng, therefore, starts with a clean slate.

12 Second, the burden of proof is on the Government
13 until the very end of the case. The defendant has no burden
14 to prove his innocence, or to present any evidence, or to
15 testify. Since the defendant has a right to remain silent,
16 the law prohibits you from arriving at your verdict by
17 considering that the defendant may not have testified.

18 Third, the Government must prove the defendant's
19 guilt beyond a reasonable doubt. I will give you further
20 instructions on this point later, but bear in mind that in
21 this respect, a criminal case is different from a civil case.

22 Now, the evidence from which you will find the facts
23 will consist of the testimony of witnesses, both on direct and
24 cross-examination; documents; other items or material received
25 into the record as exhibits; and any facts that the lawyers

1 agree to, or stipulate to, or that I may instruct you to find.
2 Certain things are not evidence and must not be considered by
3 you. I will list them for you now.

4 Statements, arguments, and questions by lawyers are
5 not evidence. Objections to questions are not evidence.
6 Lawyers have an obligation to their clients to make objections
7 when they believe that the evidence being offered is improper
8 under our rules of evidence. You should not hold that against
9 them. You should not be influenced by the objection, or by my
10 ruling on it. If the objection is sustained, ignore the
11 question. If it's overruled, treat the answer like any other.

12 Testimony that I have excluded or told you to
13 disregard is also not evidence and must not be considered. If
14 you are instructed that some item of evidence is received for
15 a limited purpose only, you must follow that instruction.

16 Anything you may have seen or heard outside the
17 courtroom is not evidence and must be disregarded. You are to
18 decide the case solely on the evidence presented here in the
19 courtroom.

20 There are two kinds of evidence: direct and
21 circumstantial. Direct evidence is direct proof of a fact
22 such as testimony of an eyewitness. Circumstantial evidence
23 is proof of facts from which you may infer or conclude that
24 other facts exist. I will give you further instructions on
25 these, as well as other matters, at the end of the case, but

1 keep in mind that you may consider both kinds of evidence. It
2 will be up to you to decide which witnesses to believe, which
3 witnesses not to believe, and how much of any witness's
4 testimony to accept or reject. I will give you some
5 guidelines for determining the credibility of witnesses at the
6 end of the case.

7 Now, a few words about your conduct as jurors.

8 First, I instruct you that during the trial, you are
9 not to discuss the case with anyone or permit anyone to
10 discuss it with you. Until you retire to the jury room at the
11 end of all of the evidence to deliberate on your verdict, you
12 simply are not to talk about the case. This instruction about
13 not discussing the case extends to members of your family or
14 friends. Don't discuss the case with anyone, not even your
15 fellow jurors, until you are retire to deliberate. The
16 attorneys, the parties, and witnesses in this case are not
17 allowed to communicate with you. They're not even allowed to
18 tell you hello or good morning. As I told you during jury
19 selection, when they pass you in the hallway and they ignore
20 you, they're not being rude; they're simply following my
21 instructions to not interact with you as a juror.

22 Second, as I instructed you also during jury
23 selection, do not read or listen to anything touching on this
24 case in any way. If anyone tries to talk to you about it,
25 please bring it to my attention promptly. You also may not

1 disclose any information about this case, so don't Twitter
2 about it, don't write a blog about it, don't text about it,
3 don't communicate in any way to anyone about the trial, the
4 case, or the people involved in the case, until you are
5 excused from jury service at the end of your deliberations.

6 Third, as I also told you previously, as jurors, you
7 must decide this case based solely on the evidence presented
8 here within the four walls of this courtroom. This means that
9 during the trial, you must not conduct any independent
10 research about this case, the issues in this case, the
11 individuals, or the entities involved in this case, including
12 looking up information on social media. You are just not
13 allowed to do any of that. In other words, you should not
14 consult dictionaries, reference materials, search the
15 internet, websites, blogs, Twitter. Whatever it is that's
16 being used these days, you are not allowed to use it. No
17 electronic tools to obtain information about this case or to
18 help you decide this case. Please do not try to find out any
19 information from any source outside the confines of this
20 courtroom. A juror who violates these restrictions
21 jeopardizes the fairness of these proceedings and a mistrial
22 could result, which would require the entire trial process to
23 start all over again.

24 Finally, do not form any opinion until all the
25 evidence is in. Keep an open mind until you start your

1 deliberations at the end of the case.

2 Now, one of you inquired at the end of jury
3 selection about taking notes, and I saw that most of you
4 walked in with a pad this morning. You may take notes during
5 the course of the trial, but keep in mind, however, that
6 during your deliberations, you can request that some or all of
7 the transcript being made of the trial be sent back to you in
8 the jury room. As you see, there are court reporters in the
9 room. You will see them come and go. They're recording
10 everything that's being said, and you will have access to all
11 of that during jury deliberation. If you do decide to take
12 notes, be sure that your note-taking does not interfere with
13 your listening and considering all of the evidence. Your
14 notes are to be used solely to assist you and are not a
15 substitute for your recollection of the evidence in the case.
16 Also, if you do take notes, do not discuss them with anyone
17 before you begin your deliberations; and at the end of the
18 day, be sure to leave your notes in the jury room. You cannot
19 take them home with you. If you choose not to take notes,
20 remember that it is your own individual responsibility to
21 listen carefully to the evidence. You cannot give this
22 responsibility to someone who is taking notes.

23 I ask you to please arrive at the courthouse every
24 day so that we can start at 9:30, and I thank you for doing so
25 this morning, and I apologize that we got started a few

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1 minutes late. When you are here on time, it is a courtesy to
2 your fellow jurors and to all the parties and witnesses. As I
3 mentioned before, we cannot begin the trial until you are all
4 present. I will do everything I can to minimize the delay
5 during the trial. We will take a 15-minute break in the
6 morning, 15-minute break in the afternoon, and also a half an
7 hour lunch break, but if at any time you need to use the
8 restroom, simply raise your hand, and I will take a break to
9 accommodate that.

10 The trial will now begin. The only thing that I
11 should say is we are going to sit, as I said, during jury
12 selection from 9:30 in the morning until 3:30 in the
13 afternoon. Keep in mind, however, that if we have a witness
14 who has traveled from a distance, and is on the stand, and we
15 could finish up that testimony by staying over a little bit
16 that day, I will try to accommodate that witness. I will make
17 sure I check with you first to ensure that you don't otherwise
18 have plans that require you to leave at 3:30 that day.

19 The trial will now begin.

20 First, the Government will make an opening statement
21 which is simply an outline to help you understand the evidence
22 when it is presented.

23 Next, the defendant's attorney will make an opening
24 statement. Opening statements are neither evidence nor
25 arguments. The Government will then present its witnesses,

1 and counsel for Mr. Ng may cross-examine them.

2 Following the Government's case, the defendant may,
3 if he wishes, present witnesses whom the Government may
4 cross-examine. After all the evidence is in, the attorneys
5 will present their closing arguments to summarize and
6 interpret the evidence for you, and I will instruct you on the
7 law; and after that, you will retire to deliberate on your
8 verdict.

9 To the alternate jurors, let me specifically inform
10 you that you should listen as carefully and conscientiously as
11 all other jurors. You may very well be called upon prior to
12 the conclusion of the case to take a place of one of the
13 jurors, and you will have to render a verdict, so please pay
14 strict attention at all times.

15 Is the Government ready to present its opening
16 statement?

17 MR. WIBLE: Yes. Thank you, Your Honor.

18 THE COURT: Please proceed, Counsel.

19 MR. WIBLE: Thirty-five million dollars. That's how
20 much money that man, the defendant, Roger Ng received as
21 payment for his role in a massive bribery and money laundering
22 scheme.

23 It was a scheme to steal more than a billion dollars
24 from the Government of Malaysia to pay millions of dollars in
25 bribes to government officials so they would turn a blind eye

1 to the theft, and to cover up the crime by laundering the
2 money through offshore companies in bank accounts all over the
3 world, including right here in New York.

4 The defendant worked as a banker at Goldman Sachs,
5 an investment firm based here in New York out of Goldman's
6 offices in Southeast Asia. He saw an opportunity to use his
7 position at Goldman to get rich by cheating. How did he do
8 it? The Malaysian government-owned and controlled a company
9 called 1MDB that was supposed to raise money for projects to
10 develop the country's economy, and the defendant had a
11 relationship with a young Malaysian socialite named Jho Low,
12 who had close ties to powerful government officials in
13 Malaysia who ran 1MDB; so the defendant, Low, and others,
14 hatched an illegal plan, what's called a conspiracy.

15 They agreed to have Goldman Sachs raise billions of
16 dollars for 1MDB by saying that the money would be used for
17 development projects; but, secretly, they planned to steal
18 much of that money from 1MDB to enrich themselves; and to make
19 sure that their plan would succeed, the defendant, Low, and
20 others, agreed to bribe government officials to approve the
21 fund-raising and to look the other way while they stole the
22 money.

23 The scheme worked as planned. Once 1MDB got the
24 money, hundreds of millions of dollars got siphoned off and
25 sent through offshore companies in bank accounts all over the

Opening Statement - Mr. Wible

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1 world to cover up the scheme. The stolen money was used to
2 pay bribes to the government officials who had approved the
3 bond deals. It was also used to pay off others in the scheme,
4 including the defendant, who got \$35 million -- \$35 million in
5 criminal proceeds. That is why we are here.

6 Ladies and gentlemen, this opening statement is the
7 Government's opportunity to give you an overview of the
8 evidence we are going to show you in this case.

9 First, I will describe what we expect the evidence
10 in the trial to show; second, I will give you a brief overview
11 of the charges against the defendant; and, finally, I will
12 explain how the Government will prove its case to you.

13 So, what will the evidence show?

14 First, and crucially, it will show that the
15 defendant saw an opportunity to make millions of dollars by
16 cheating, and he took it. As you will learn, the defendant
17 was a managing director at Goldman Sachs, and he was one of
18 the people with primary responsibility to the bank's business
19 in Malaysia, a country in Southeast Asia. As a global
20 investment firm, Goldman was in the business of raising money
21 for its clients -- typically, large companies, and sometimes
22 foreign governments -- in advising those clients on financial
23 transactions. The defendant's job was to try to get business
24 for Goldman. But to try to get business for Goldman, the
25 defendant invested time and energy in building a relationship

1 with Jho Low. Jho Low was a young Malaysian social climber
2 who lived lavishly. He threw over-the-top parties that were
3 attended by Hollywood stars, and he had political connections
4 with powerful government officials in Malaysia and the Middle
5 East, and the defendant knew that those connections could be
6 useful in winning business for Goldman Sachs, including with
7 government-owned companies like 1MDB.

8 And, sure enough, in early 2012, Jho Low approached
9 the defendant and Tim Leissner, another Goldman banker and
10 close friend of the defendant, with the plan to raise money
11 for an investment firm -- an investment fund that was owned
12 and controlled by the Government of Malaysia. This fund was
13 called 1 Malaysia Development Berhad, or 1MDB. It was
14 supposed to raise money to help develop Malaysia's economy.

15 The plan Jho Low proposed to the defendant and
16 Leissner was to have Goldman Sachs raise over a billion
17 dollars for 1MDB, but the plan wasn't to use the money to
18 benefit the people of Malaysia. Instead, the plan was to
19 steal it so they could get rich. To make that plan succeed,
20 they would have to bribe government officials -- Jho Low's
21 powerful connections -- to sign off on raising all of that
22 money and to go along with the scheme of stealing; and for
23 making sure that Goldman would help 1MDB raise the money, the
24 defendant and Leissner would get paid millions of dollars in
25 secret kickbacks -- or side payments -- from this Goldman

1 money.

2 The defendant and Leissner agreed with Low's
3 proposal, and they set the plan in motion. How are they going
4 to raise all of that money for 1MDB? Well, Goldman was going
5 to help 1MDB issue bonds. The bond is just a type of loan
6 used to raise money from investors; and, here, when the
7 investors bought the bonds, that meant they were loaning money
8 to 1MDB for development projects, and they were supposed to be
9 repaid on a set schedule. The defendant and Goldman Sachs
10 were crucial to the scheme because investors would give
11 billions of dollars to 1MDB only if a respected global bank
12 like Goldman Sachs was involved -- 1MDB needed Goldman to
13 raise all that money -- and the defendant's role was to pull
14 the strings at Goldman Sachs to make sure Goldman would hold
15 1MDB.

16 Now, you will hear that the defendant had tried to
17 get Goldman Sachs to do business with Jho Low in the past, but
18 there was a problem. Just because a banker wants to do a deal
19 doesn't mean that Goldman will do it. Goldman has rules about
20 how it does business and people would enforce those rules.
21 When the people at Goldman who review potential business
22 partners couldn't confirm the source of Jho Low's wealth, it
23 had serious concerns about news reports describing Low's
24 lavish life, and because of these red flags, Goldman had
25 refused to do business with Low. (Continued on next page.)

Opening Statement - Wible

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1 (Continuing.)

2 MR. WIBLE: To make sure that Goldman would approved
3 the 1MDB deals, even though they were working closely with Jho
4 Low, the defendant and Leissner knew they had to hide
5 Leissner's involvement. They hid the involvement with Jho Low
6 using their personal e-mail accounts. By using the personal
7 e-mail accounts rather than their official Goldman accounts
8 they made sure that Goldman wouldn't know what they were
9 discussing and so that they wouldn't know that Jho Low was
10 involved.

11 To raise money for 1MDB, Goldman handled three bond
12 deals for 1MDB in 2012 and 2013. These deals were referred to
13 internally at Goldman as Project Magnolia, Project Maximus and
14 Project Catalyze. The first of the three bond deals, Project
15 Magnolia, raised \$1.75 billion and it was supposed to be used
16 to acquire a power company from Malaysia. The bonds were
17 guaranteed by an investment fund that was owned by the
18 government of Abu Dhabi which is part of the United Arab
19 Emirates, a country in the middle east. In other words, if
20 1MDB couldn't repay the investors, the investment fund from
21 Abu Dhabi would help make the repayments.

22 A company owned in Abu Dhabi Investment Fund Aabar
23 Investment PJS was supposed to be paid for providing that
24 guarantee. However, you will hear that around that very same
25 time, Jho Low along with a couple of corrupt government

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1 officials from Abu Dhabi was trying to get a bank account
2 opened in Singapore under the name Aabar Investments PJS
3 Limited. This Aabar entity had been incorporated in the
4 British Virgin Islands or BVI and its name sounded like the
5 name of the real Abu Dhabi Investment Fund that was involved
6 in Project Magnolia, but the two entities were not related.
7 It would be like opening a bank account in the name of Burger
8 King Limited that had nothing to do with the fast food
9 restaurant.

10 In the spring of 2012, the defendant, Leissner and
11 Jho Low all went to Singapore where the defendant and Leissner
12 met with representatives of the bank and as you will hear this
13 bogus Aabar BVI bank account ultimately received \$1 billion
14 that had been stolen from 1MDB.

15 Meanwhile, Project Magnolia was being reviewed
16 internally at Goldman Sachs. There were two separate
17 committees based in New York that looked at the proposed deal
18 from different angles before ultimately approving it.
19 Throughout that process, the defendant and Leissner continued
20 to hide Jho Low's involvement in the deal; their meetings with
21 him, their secret e-mails with him and the criminal scheme
22 that they had hatched with Jho Low, including that they
23 expected to personally profit to the tune of tens of millions
24 of dollars from the deal.

25 You will learn that the defendant and Leissner hid

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1 all of that because there were bright red flags around Jho Low
2 and you will hear that Goldman prohibited its bankers from
3 receiving kickbacks and side payments for working on a deal.

4 In May 2012, Project Magnolia closed and Goldman
5 transferred nearly \$1 billion to 1MDB. One day later, more
6 than half of that money, over \$500 million was siphoned out of
7 1MDB and into the Singapore bank account held by the bogus
8 Aabar BVI entity. That's when just as the defendant and his
9 co-conspirators had planned only a few months earlier,
10 millions of dollars in bribes got paid to government officials
11 in both Malaysia and Abu Dhabi and when the defendant and
12 Leissner got their cut of the stolen money for making sure
13 that Goldman handled the deal. Many of these corrupt payments
14 went through the United States including right here in New
15 York.

16 Over the course of the trial you will follow the
17 money, you will learn about how the defendant and his
18 co-conspirators tried to cover their tracks and conceal these
19 payments. To cover up a massive theft and bribery scheme,
20 they had to take five steps. They used bank accounts in the
21 name of offshore companies, companies that only exist on paper
22 and don't do any business to receive the stolen money. You
23 will hear that roughly three weeks after Project Magnolia
24 closed and the bonds were issued, \$35 million of the stolen
25 bond funds was transferred to an account in the name of a

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1 shell company that was owned and controlled by Leissner and
2 his ex-wife.

3 Only days later, Leissner sent the defendant exactly
4 half of that total. Leissner was giving the defendant his cut
5 of the criminal proceeds. It was a kickback for getting the
6 deal done which was prohibited by Goldman's rules and which
7 the defendant never told Goldman about. Only a few weeks
8 after that, Leissner sent the defendant even more money for a
9 total of \$24 million in kickback payments.

10 In the two months after the first bond deal closed,
11 the defendant received his kickback payments into an account
12 in the name of an offshore British Virgin Islands shell
13 company that had been opened up at the very same time that
14 Project Magnolia closed. And, as we will show you, the
15 defendant used this shell company and even his own wife and
16 mother-in-law as a front to hide his identity.

17 This may all seem a bit complicated and some of the
18 financial transactions are, but at bottom, this was a simple
19 scheme. The defendant and his co-conspirators stole a huge
20 amount of money. They paid bribes to multiple government
21 officials and they moved the money through shell companies and
22 into offshore bank accounts to cover it up.

23 Not long after that first bond deal was done, the
24 defendant and Goldman started helping 1MDB on yet another \$2
25 billion bond. This transaction would become known as Project

Opening Statement - Wible

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1 Maximus. The plan was the same: Raise the money for 1MDB,
2 steal it, pay bribes and move the money through shell
3 companies and offshore bank accounts to cover up the crime.

4 The defendant and Leissner again made sure that
5 Goldman helped raise the money for 1MDB and that money flowed
6 into 1MDB and days after this deal closed in late 2012 nearly
7 half the bond proceeds, almost \$800 million was diverted to
8 the same fake Aabar BVI account that was used for the first
9 bond deal, all before the money was sent out as bribe payments
10 to foreign officials and others.

11 Now, despite raising more than \$3 billion over the
12 course of just a few months in early 2013 Goldman arranged a
13 third multibillion dollar bond transaction for 1MDB. This was
14 Project Catalyze. And, yet again, the plan was the same.
15 After the deal closed, more than \$1 billion in bond proceeds
16 had been diverted including to foreign officials as bribe
17 payments. Not long after the third bond deal closed, one of
18 Jho Low's shell companies sent millions of dollars of the
19 stolen money to the shell company that was owned and
20 controlled by Leissner and his ex-wife.

21 A few months after that, with kickbacks tied to the
22 scheme Leissner sent millions of dollars to the defendant's
23 shell company. In all, between 2012 and 2013 the defendant
24 got over \$35 million in kickbacks for his role in making sure
25 that Goldman Sachs helped 1MDB raise billions of dollars so

Opening Statement - Wible

24

1 that the coconspirators could steal.

2 The Government officials that approved the bond
3 deals also got millions of dollars as did Jho Low, Leissner
4 and other co-conspirators. That money got laundered through
5 accounts all over the world and spent on high-end real estate
6 and luxury goods like art, jewelry and handbags, including
7 right here in New York.

8 Now, the defendant left Goldman Sachs in the spring
9 of 2014 and in early 2015 as the corruption at 1MDB became
10 publicly known and things started to unwrap, the evidence will
11 show that the defendant tried to cover his tracks and he
12 deleted the entire contents of four personal e-mail accounts
13 that he had used to communicate with Jho Low, Leissner and
14 other participants in the scheme and that he had used to
15 communicate about his shell company.

16 For this conduct, the defendant has been charged
17 with three crimes. I will briefly explain the charges to you
18 but Judge Brodie will instruct you on the law at the end of
19 the trial and you should follow her instructions. First, the
20 defendant is charged with conspiracy to violate the Foreign
21 Corrupt Practices Act or FCPA. That's a law that outlaws
22 offering or paying bribes to foreign government officials when
23 the purpose of the bribe is to obtain or get some sort of
24 business advantage. Conspiracy, that's just another word for
25 an agreement between at least two people to commit a crime.

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1 Second, the defendant is charged with conspiracy to
2 circumvent Goldman Sachs's internal accounting controls. I
3 expect the judge will instruct you that the law requires
4 companies that issues stock to investors here in the United
5 States to have controls or rules around how the money gets
6 used and you will hear it's a crime to try to evade or get
7 around those rules.

8 Third, the defendant is charged with conspiracy to
9 commit money laundering and you will learn it's federal crime
10 to transfer money into or outside of the United States when
11 the money is the product of criminal activity and the purpose
12 of the transfer is to conceal something about the money such
13 as its source or who controls it. You will also learn that
14 it's a crime to send money into or out of the United States
15 when the purpose of the transfer is to promote bribery. And
16 you will learn it's a crime to spend or transfer over \$10,000
17 in dirty money.

18 You will see that the defendant and others wired
19 millions of dollars in funds tied to the criminal scheme into
20 and out of banks right here in New York. That's a summary of
21 what the evidence in this case will show and the charges
22 against the defendant. So, how will the Government prove it's
23 case to you?

24 You are going to hear from a number of witnesses and
25 you will see e-mails, bank records and many other documents

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1 that lay out the details of the scheme. Keep in mind the
2 evidence will come in in bits and pieces. No single witness
3 will give you the full picture, but at the end of the trial we
4 are going to have another opportunity to speak with you and
5 explain how the evidence all fits together.

6 So, witnesses from Goldman Sachs will testify
7 including about the bank's serious concerns about Jho Low, the
8 terms of the 1MDB bond deals, how Goldman's own money was used
9 to finance the bonds and the controls that were in place and
10 the approvals that were required before Goldman's money could
11 go out the door. They will tell you that the defendant and
12 Leissner never disclosed Jho Low's role in the transactions or
13 the criminal scheme that the defendant and Leissner knew was
14 at the heart of the deals. You will also hear from other
15 witnesses, including a former employee of the bank that that
16 account held by the bogus Aabar BVI entity had received over
17 \$1 billion in stolen 1MDB funds. He will tell you how the
18 defendant and Leissner met with a number of employees in April
19 of 2012 about the bond deal.

20 And who else will testify? One of the people who
21 profited from this corrupt deal alongside the defendant. His
22 partner in crime and coconspirator, Tim Leissner. Leissner
23 worked with the defendant at Goldman Sachs. He worked closely
24 with the defendant and Jho Low to pursue business with 1MDB.
25 He will give you an inside view of this bribery and money

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1 laundering scheme that earned them millions of dollars and had
2 enriched other members of the conspiracy.

3 Leissner has pleaded guilty for his role in the
4 scheme. He's going to be testifying here under a cooperation
5 with the Government. He is going to do that because he is
6 hoping to get a lighter sentence. Now, we are not asking you
7 to approve of Leissner's conduct in this case. He committed
8 and he has pleaded guilty to serious crimes and you should
9 scrutinize his testimony carefully. I submit that when you
10 do, you will see that his testimony makes sense and that it's
11 corroborated or supported by all of the other evidence in the
12 case; evidence like bank statements and wire transfer records
13 that will allow you to follow the money.

14 Step-by-step you will see how billions of dollars
15 flowed from Goldman Sachs to 1MDB and then got diverted. You
16 will see how bribes flowed out to foreign officials in
17 Malaysia and Abu Dhabi and how the defendant received a cut of
18 the stolen bond funds, more than \$35 million in total. But
19 that is not all. You will see documentary proof showing you
20 how the defendant tried to hide the millions of dollars he
21 received.

22 You will see e-mails and bank records showing that
23 the defendant's cut was transferred to a bank account in the
24 name of an offshore shell company. You will learn that this
25 account was opened at nearly the exact same time the first

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1 bond deal closed and you will learn about how the bank account
2 was opened based on lies about who the account was for and
3 where the money had come from.

4 You will see that the account was actually
5 controlled by the defendant and his wife and that the money
6 actually came out of the stolen 1MDB bond money. You will see
7 e-mails and other records showing that the defendant's wife
8 used the criminal proceeds in the account to buy expensive
9 jewelry, including a six-carat diamond and the defendant and
10 his wife were looking to buy real estate with the stolen
11 money. You will see evidence that the defendant's involvement
12 and role in this conspiracy grew out of his years'-long
13 efforts to cultivate a relationship with Jho Low.

14 You will see e-mails, travel records and other
15 documents showing that in the years leading up to the three
16 bond deals that Goldman Sachs handled for 1MDB in 2012 and
17 2013, the defendant flew on multiple chartered jets with Jho
18 Low, attended a lavish, celebrity-studded event that Jho Low
19 hosted in Las Vegas and that he visited Jho Low on a luxury
20 yacht in the Mediterranean Sea off the coast of France.

21 Finally, you will see records showing that in 2015
22 as things started to unravel, the defendant and other multiple
23 co-conspirators deleted the entire contents of numerous e-mail
24 accounts that they used to communicate about the scheme and
25 the criminal proceeds of the scheme.

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1 Ladies and gentlemen, all of this evidence, the
2 witnesses, the bank records and e-mails and other documents
3 will prove beyond a reasonable doubt that the defendant
4 received more than \$35 million in secret kickbacks for his
5 role in a brazen bribery and money laundering scheme; a scheme
6 that involved bribes paid to government officials in Malaysia
7 and Abu Dhabi, paid with millions of dollars in stolen bond
8 funds that were supposed to have been used to benefit the
9 people of Malaysia. The evidence will show that the defendant
10 hid the scheme from Goldman to make sure that it would
11 succeed. The evidence will prove beyond a reasonable doubt
12 that the defendant committed these acts and is guilty of the
13 crimes with which he has been charged.

14 Now, I am about to sit down, but before I do, I want
15 to ask you to do three things over the course of this trial:
16 First, listen carefully to the witnesses and pay close
17 attention to the evidence; second, follow Judge Brodie's
18 instructions on the law; and, third, use your common sense,
19 the same common sense you use every day in making important
20 decisions in your own lives. If you do those three things, at
21 the end of the trial, you will return the only verdict that is
22 consistent with the evidence, the law and your common sense,
23 that the defendant is guilty as charged.

24 THE COURT: Thank you, counsel.

25 Mr. Agnifilo.

Opening Statement - Agnifilo

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1 MR. AGNIFILO: Good morning, everybody. My name is
2 Marc Agnifilo. I am joined by Teny Geragos. We have Jennifer
3 Silverstein, Matthew Trotter and Jacob Kaplan, and the most
4 important person is the defendant, Roger Ng. I'm going to
5 call him Roger.

6 Roger is 100 percent innocent. You will see in the
7 evidence he is 100 percent innocent. That is not because of
8 some technicality. That is not because of some trick. That's
9 because of the evidence and we are going to go through the
10 evidence in a little more detail than the Government went
11 through the evidence because this case is not going to be
12 based on slogans or the Government's conclusions like
13 what's -- like what is a kickback or what is a shell company.
14 It's going to be based on the evidence.

15 Now, when we were selecting you, Judge Brodie
16 pointed out that Mr. Ng is not from here. He's from Malaysia
17 and he has come here to an American courtroom, to an American
18 trial, presided over by an American judge, to be prosecuted by
19 the United States of America and by all of you, an American
20 jury.

21 And what we have here is among the rarest of things
22 to happen in an American courtroom because we are about to
23 actually have a trial of an innocent man. Now, what in the
24 evidence -- talking about the evidence, what in the evidence
25 will point to Mr. Ng's innocence? Let's get started: This is

Opening Statement - Agnifilo

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1 a very big case. The Government has pointed out some aspects
2 of just how big it is. It takes place in many different
3 countries. It is -- it involves billions and billions of
4 dollars. It involves the highest of government; the prime
5 minister of Malaysia, major public figures in Abu Dhabi. But
6 the Government didn't tell you and what you are going to see
7 in the evidence is that there is one witness, one witness, who
8 is going to say that Mr. Ng broke the law. No one else. One
9 witness. And that witness is Tim Leissner, his boss at
10 Goldman Sachs. We're going to talk about Tim Leissner in more
11 detail in a little while.

12 The other thing that the Government talked about was
13 bank records. The bank records will not show, I submit when
14 you see the evidence, that Mr. Ng sent money to a public
15 official. The bank records are not going to show that anyone
16 in his family sent money to a public official. It's not going
17 to show that. It's going to show that other people did that,
18 yes. Keep in mind one thing, and let me say at the outset, I
19 represent Roger, that's it. This is a massive crime and there
20 are lots of guilty people. He's just not one of them.

21 So when the bank records start coming into evidence,
22 look at who is actually sending the money. It's never him.
23 You know how they say never say never, I am saying never.
24 It's never him. Written communications, e-mails, text
25 messages, BlackBerry messages and the 15 other ways that

Opening Statement - Agnifilo

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1 people use their thumbs to send things most, of which I don't
2 know. The Government has hundreds of thousands of them, maybe
3 even millions. Look at them. You are not going to see one
4 message, not one BlackBerry message, not one e-mail, not one
5 text message of Roger talking about bribery or trying to
6 influence public officials or doing anything inappropriate or
7 anything criminal. Again, I am saying never. It's never
8 going to happen.

9 Tape recordings -- you are going to hear that the
10 Government cooperator made recordings; that for a period of
11 time Tim Leissner was making recordings based on phone calls
12 and he was videotaping some of these and audiotaping some of
13 these working with the FBI. You will not hear a single
14 recording of Roger. When the evidence is coming in and we are
15 at that point in the trial where Mr. Leissner is sitting in
16 the jury box where all the witnesses are going to go and he's
17 talking about the period of time when he is making recordings
18 Foster FBI, ask yourself a question when you are listening to
19 that evidence, please: Why didn't they try to make a
20 recording of Roger? Ask yourself the question and to ask the
21 question may be enough to know the answer. Why didn't they
22 make a recording of Roger?

23 The reason it's important is because Tim Leissner is
24 going to come into the courtroom and sit in this jury box and
25 he is going to tell you all the things that Roger did, right?

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1 He is going to say, Roger told me who to pay, Roger told me
2 who to bribe. Roger was involved in the bribe. If that's
3 true, wouldn't it be great for the U.S. government to have
4 that in a recording? If that's true, wouldn't that be
5 something the FBI would do backflips to record? If the reward
6 to law enforcement is so great by getting a recording, ask
7 yourself why aren't there any, and you will reach your own
8 conclusion by the end of the case. The evidence, I think,
9 will show you the reason is because innocent people say
10 innocent things. And you don't want to have innocent things
11 on your audiotape so there's no recording of Roger, not one.

12 The absence of evidence is evidence of absence.
13 It's not just a lack of evidence. It's not like when you're
14 listening to the evidence in this case and there's no bad text
15 messages and no bad e-mails. It's not like when you listen to
16 the evidence in this case and there's no bank records that
17 show he sent money to any public officials. It's not like
18 it's just a lack of evidence. It's actually evidence that
19 he's not involved. And the reason is what you will see in the
20 evidence is that the co-conspirators did leave evidence
21 behind. You are going to see text messages between Leissner
22 and Jho Low and Leissner's former wife, Judy, and other people
23 from the middle east. Someone named Mohammed Husseiny.

24 The co-conspirators used these methods. They used
25 text messages. They used BlackBerry messages to communicate

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1 with each other. So it's not like there is no evidence that
2 Roger did, but there is no evidence that anyone else did
3 either. It's quite the opposite. You know what they did
4 because there's evidence of what they did. So when you look
5 at the evidence and you see none of it, none of it, with Roger
6 it's absence of evidence.

7 One of the things I want you to think about, you are
8 going to be seeing a lot of e-mails in this case. The
9 Government is going to show you a lot of e-mails. One thing
10 you will learn about Goldman Sachs is that, man, they send
11 e-mails. Roger sent a lot of e-mails and Roger received a lot
12 of e-mails. I want to tell you something now that I want you
13 to look for when you are looking at the e-mails: Roger
14 follows process. And what I mean by that is when he's
15 supposed to move things up to his boss for his boss'
16 consideration, he does it. When Goldman expects him to do
17 certain things as part of his job, he does it.

18 I will give you an example. Roger is based in
19 Malaysia. He's a Malaysia coverage person, sort of a
20 specialist in Malaysia. If something comes up in a deal that
21 has to do with Abu Dhabi -- you will see e-mails of this:
22 Roger, make sure we get the Abu Dhabi team on this. Roger
23 follows process and the reason following process, and I
24 suggest you will see it in the evidence, is important in this
25 case is because bribery is the opposite of process. Bribery

Opening Statement - Agnifilo

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1 is the destruction of process. Bribery is utterly
2 inconsistent with process. So what I want you to do as you're
3 looking at all the e-mails, and it might be hundreds or
4 thousands, just back of your head -- you will be looking at
5 the e-mails for different things; what's going on in the deal,
6 what's going on here. Is Roger following the process? Is
7 Roger following the process in the e-mail because it's an
8 important thing to keep in mind.

9 (Continued on the following page.)

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1 (Continuing.)

2 MR. AGNIFILO: You would think so. We've talked
3 about this massive series of bond deals, we talked about
4 Goldman Sachs. You might be sitting here thinking, who is
5 Roger at Goldman Sachs. He must be really important to be
6 bearing the full weight of all that we heard in the
7 Government's opening. He must be a very important person at
8 Goldman Sachs.

9 Is he the chief executive officer? No. Is he the
10 chief finance officers? No. He's not a chief of anything.
11 He's not even a partner. Goldman Sachs has 40,000 employees.
12 It has 400 partners. Just like we hear in society, the
13 1 percent, Goldman has 1 percent too. 1 percent are partners,
14 99 percent aren't. He's not. He doesn't run Goldman Sachs,
15 he does not set bank policy, he doesn't decide what deals to
16 go after. He doesn't share in the firm's profits. He doesn't
17 do any of it. They didn't ever make him a partner.
18 Leissner's a partner. You're going to hear a lot of partners
19 from Goldman Sachs doing a lot of things. One man here. One.
20 This man. Not a partner.

21 One of the reasons you guys are all on this jury is
22 you guys can figure stuff out. You can size people up, you
23 can figure out situations, and you'll reach your own
24 conclusion about why he is the only one here.

25 One of the things I want you to think about as

1 you're listening to the evidence, very important, motive. As
2 you're listening to the evidence, think about what does this
3 mean in terms of motive, okay, because it's a very important
4 concept. So here are a few things that's going to come out in
5 the evidence. Roger comes from a modest family. He didn't
6 grow up rich, by any means. And he worked very hard his whole
7 life, and you'll see that. You'll see that in the e-mails. I
8 think people will even say that. He worked hard his whole
9 life, and he is well paid by Goldman Sachs. Very well paid.
10 No question about it. But he has a modest lifestyle and he
11 has -- he's had the good fortune to marry into a family -- his
12 wife has certain means. So the point of all this is, he
13 doesn't need extra money. He doesn't need extra money. He
14 has a good salary, his wife has plenty of money from her own
15 family. We're going to talk about that in a minute. We're
16 going to talk at great length about the 35 million. But we'll
17 do that in a few minutes. His wife is fine. She comes from a
18 family of means. And it's not just anybody or for no reason
19 at all that someone would decide, you know what would be
20 really good for my life, I'm going to commit one of the
21 biggest financial crimes in the history of the world. Why
22 would you do that? You would do that if you had a motive.

23 Now let's talk about Jho Low, okay. Jho Low is pure
24 low. Jho Low is the polar opposite of Roger. You're going to
25 hear a lot at this trial about Jho Low. In a nutshell, you're

Opening Statement - Mr. Agnifilo

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1 going to hear Jho Low is a young guy and he wants all the
2 money. He wants all the money as soon as possible, and he
3 wants all the money as soon as possible, because he wants to
4 have the most over-the-top lifestyle that's ever been had. He
5 wants to have parties with celebrities whom he pays. He wants
6 to have yachts. He wants to have planes. He wants to have
7 homes. He is just looking for the biggest of lifestyles. And
8 the own only way to make that kind of money without investing
9 it longterm and waiting like everybody else does, is to steal
10 it. So Low steals the money for Low.

11 Leissner -- we're going to talk a lot about
12 Leissner. Both in the opening and during the trial.
13 Leissner's different than Low. And Leissner maybe didn't
14 quite start out like Low. Leissner just started at immoral.
15 Flat out immoral. You guys will size him up yourself. He
16 started out immoral. But then something happened. He met Low
17 and that immortality came alive. What was just kind of a lie
18 burn of immorality, you'll hear about that. He keeps getting
19 in trouble at Goldman, he keeps doing the wrong thing, he's
20 leaking information to the reporter, he's doing things at
21 Goldman that they don't want him to do. But it's just normal
22 immorality. Low sets Leissner's immorality on fire, and all
23 of a sudden, Leissner basically meets Low and says where has
24 this been all my life. I want what that guy has. I want
25 yachts. He gets a yacht. I want planes. I want homes. I

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1 want a house in Beverly Hills. I want a house in New York. I
2 want to buy houses for women in my life in different parts of
3 the world. And so he becomes Low. I'm not even sure he's a
4 mini version of Low. He sort of goes Low, you know, toe to
5 toe with Low. And so Leissner has motive.

6 What you're going to see -- and these are really
7 important e-mails that you're going to see -- you're going to
8 see Leissner desperate for money. He uses the use word
9 desperate. I'm desperate for money. I don't have enough
10 money. But you know what Leissner's going to do -- and you'll
11 see this in the evidence -- at one point, he marries Kimora
12 Lee Simmons. He's going to blame it all on her. Why am I
13 desperate for money? It's Kimora. When the evidence comes
14 in, watch how many people Leissner blames. He blames Kimora,
15 because he bought Kimora a yacht. He blames everybody. But
16 the blame in this case really rests with Leissner and Leissner
17 alone. Leissner has tremendous motive. Jho Low has
18 tremendous motive. They found each other and they share a
19 motive. Very different, polar opposite, you'll see this in
20 the evidence is Roger. Not like them, has no motive, didn't
21 commit this crime along with them.

22 So let's go back to really where this case starts,
23 2005. In 2005, Roger starts at Goldman Sachs. Leissner's
24 been there for about seven years by that point, and the two of
25 them meet each other. The next year, Leissner becomes a

1 participating managing director. And the word participating
2 is really the most important word of those three, because when
3 you're a participating managing director, what you're
4 participating in are the profits of Goldman Sachs. It means
5 you're a partner, okay. One of the 1 percent. And Leissner
6 is a partner. Roger's never a partner, and he's not a partner
7 when he meets Leissner. So Roger and Leissner are both
8 working at Goldman Sachs, and they're respective wives -- kind
9 of a tricky phrase, but we are we'll say wives for a second.
10 I don't know if someone is your wife if you're married to
11 someone else at the time. But we're not here in marriage
12 court. But we'll call Judy his wife. His wife at the time,
13 Judy, meets Hwee Bin, Roger's wife. Hwee Bin's comes from a
14 well-to-do family and Hwee Bin's family has a certain amount
15 of investment in China. Okay. So Hwee Bin and Judy get to
16 speaking, and Judy, Judy Leissner, Tim Leissner's wife, we'll
17 call it, says you know, I have all these businesses in China,
18 I have a vineyard, I have a very large vineyard called Grace
19 Vineyard. I have water treatment plants. I have all these
20 businesses in China. Hwee Bin says, I have money in China.
21 I'll invest in your businesses. And the two of them invests
22 Hwee Bin's family money in Judy's businesses in China.

23 Everything's fine for six years. The investment in
24 China is proceeding along. There are no problems. Then in
25 about 2011, there's a problem. And the problem is this, Tim

Opening Statement - Mr. Agnifilo

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1 Leissner, while married to Judy, is having a long-term
2 romantic relationship with someone named Rohana Rozhan, okay.
3 And you're going to hear a lot about Rohana Rozhan in this
4 trial, and you're going to hear about her a few more times
5 just in my opening statements. And Rohana Rozhan is a
6 Malaysian, Hwee Bin is a Malaysian, and Judy says to Hwee Bin,
7 did you know that Tim is sleeping with Rohana Rozhan. Hwee
8 Bin says, I thought you knew too. And friction develops
9 between Judy and Hwee Bin. And Judy says, you know what, Hwee
10 Bin, I think this investment thing has kind of run its course.
11 I think you should start taking your money out. Here's the
12 problem, Judy doesn't have the money. Judy doesn't have the
13 money to pay Hwee Bin, and you'll see this in e-mails between
14 Judy and Leissner. So this account is corroborated by e-mails
15 between Judy and Leissner about the fact that Grace Vineyard
16 doesn't have enough money. They're trying to do an IPO.
17 Leissner is trying to do an IPO of the vineyard.

18 But then something happens in 2012. In 2012,
19 Leissner and Low and not Roger -- Leissner, and Low, reach a
20 corrupt agreement where basically Leissner starts working for
21 Low, flat out. He's a Goldman Sachs partner, he's about to be
22 chairman of Goldman Sachs in Asia, but really, who he's really
23 working for is Low. And he's doing a lot of work for Low and
24 you're going to hear a lot about it during the Leissner cross
25 examination. And he gets paid for it. And he gets paid

1 \$35 million. Leissner gets paid \$35 million. He splits that
2 with Judy and Judy sends her \$17.5 million to Hwee Bin to
3 start paying down on the investment. Roger has nothing to do
4 with that. He's not hiding his money with his in-laws. It's
5 the in-laws' money. I don't know how things work in
6 Malaysian, but here in Brooklyn, your in-laws' money is not
7 your money. It's not almost your money, it's not your money.
8 It's your in-law's money and it's the same in Malaysia. It's
9 not Roger's money. The Government in their opening kept
10 saying, it's Roger's, money it's Roger's money. It's not
11 Roger's money. It's the in-laws' money, because it's the
12 in-laws' money. And you're going to see that in the evidence.

13 One of the things that I'm going to ask you to do,
14 for all the things that happened, is to see every event in a
15 context. What's all the things that happened before, what's
16 all the things that happened after, to see everything in a
17 context. To see all of these events in the right context, we
18 have to start in the December of 2008. In December of -- and
19 one of the things that I want to say to you now, because I
20 think the Government kinds of bunches all of these times
21 together -- the timing of everything is very important. And
22 the truth is, the first deal, when the deal comes in is not
23 1MDB at all. 1MDB starts much later. So let's actually
24 address, accurately, what the evidence is going to show about
25 this.

1 In December of 2008, Roger and Tim, and Roger and
2 Tim's boss at the time, David Ryan, get an e-mail from someone
3 at Goldman Sachs. And the e-mail basically says that the
4 Estate of Malaysian, called Tringganu, okay -- so like the
5 United States Malaysia is broken up into states, and one of
6 the states of Malaysia is called Tringganu. And then a
7 feature of Malaysian politics, the sultan of Tringganu is the
8 king of Malaysian. So let me tell you this, when you got your
9 jury summons, you didn't know that you were going to have to
10 understand about the Sultan of Tringganu, but you never
11 know what's going to happen when you come down here.

12 So the way that Malaysia works is that different
13 heads of the state rotate to be the king, okay. And it's the
14 Sultan of Tringganu's turn to be the king. So he's the king.
15 And basically, the Goldman e-mail says the King of Malaysia,
16 the Sultan of Tringganu is going to start a fund, get on that.
17 That's basically what -- Goldman Sachs says, hey, Roger, hey,
18 Tim, go chase down this opportunity for us. Roger realizes
19 the adviser to the King of Malaysia is Jho Low. He didn't
20 choose him to be the adviser for the King of Malaysia, he was
21 the adviser for the king. So what you're going to see in
22 early 2009, we have to be very precise with our time periods,
23 in early 2009, you're going to see Roger and Tim, both of
24 them, chasing down this business opportunity. They're meeting
25 with Low, they're talking to Low, they're pitching Low, and

1 the reason they're doing these things is because this is what
2 Goldman Sachs does. Goldman Sachs sees investment opportunity
3 and they try to get involved and they want to advise the King
4 of Tringganu on this investment opportunity. And what you're
5 going see is no doubt about it, is that Roger is playing a
6 very active role in trying to get this business opportunity
7 that he was told to go get, and he's now doing it.

8 So what I expect you're going to see and we embrace
9 it, it's part of the evidence and it's absolutely true, is
10 that Roger is courting Low, trying to get Low to like Goldman
11 Sachs, trying to get Low to go with Goldman Sachs, with this
12 investment opportunity. No question about it. As part of the
13 process, does Roger go on a couple of planes with Low? He
14 does. This is not abnormal. You're going to hear a lot of
15 this in the evidence. What you're not going too see -- and
16 this is the key -- is Roger lying to people. Do lies come out
17 of Roger's mouth and say something materially untrue about
18 this? No, you will not see that here. You will not. Does
19 Roger hide Low? He does not. We'll talk about Leissner in
20 that in a minute. He does not hide Low. He's honest,
21 everything that he does is what he's expected to do as a
22 Goldman Sachs employee.

23 I need to give you a couple of examples to really
24 understand this point that's going to be very much in the
25 evidence that you'll see. 2010 -- so we're out of 2009. Now

1 we're at 2010. In 2010, Low wants to be a private wealth
2 management client at the bank. What he basically wants is he
3 wants to bank, essentially, with Goldman Sachs. He wants
4 Goldman Sachs to be his bank. And there's a pretty rigorous
5 review process, okay, that is apart of the Goldman Sachs, sort
6 of due diligence, do we want this guy to be in our bank. And
7 what you're going to see in the evidence is there's a series
8 of slides, a presentation, from March of 2010, from March of
9 2010, and in the slides, they get evidence from a lot of
10 different sources and one of the sources is Roger. You know
11 what Roger says? I don't trust Low. I don't trust Low.
12 Engage in very careful due diligence. Make sure that you look
13 at all his factual claims critically. Roger is telling the
14 people who are trying to determine whether Low is going to be
15 a client of the bank, he doesn't necessarily believe Low, that
16 the bank should make sure it uses very great care and do very
17 careful due diligence in trying to figure out whether they
18 want Low as a client.

19 But that's not all. A month later, this is still
20 going on, and what you're going to see is Roger says the same
21 things to people in a part of the Goldman Sachs called BIG,
22 B-I-G, Business Integrity Group. And you're going to see it
23 time and again. You're going to see Roger being the one,
24 probably the one in the bank more than anyone else that says,
25 be careful of this guy. Make sure you check him out, make

1 sure you scrutinize him. It's going to be in e-mails. This
2 isn't just me talking to you. I'm talking to you about what
3 the evidence is going to be in this case. It's going to be as
4 part of a Goldman Sachs presentation.

5 The next year -- now we're at February, 2011. Some
6 thing's going on called Kazakh Gold. It's a Goldman Sachs
7 project. And in Kazakh Gold, what's going on is that Low is
8 with a company called Jynwel, all right. And Jynwel is sort
9 of forming this joint venture to try to do this financing.
10 But it's a little murky and unclear because it's a joint
11 venture. It's Jynwel and it's another company and Goldman
12 Sachs is sometimes representing one and maybe represents both,
13 and Roger comes into the situation and he says something with
14 remarkable clarity. He says, Jynwel is driving the
15 fundraising process, and that goes -- that is relevant because
16 it is acted upon. It is acted upon directly. What you're
17 going to see when you see this e-mail is Roger says it and he
18 was heard, he was heard loud and clear by his superiors,
19 because they don't let the project go forward because of what
20 Roger said. So when the Government gets up there in their
21 opening statements and says that Roger is endorsing Low, the
22 evidence is going to be the exact opposite, the exact
23 opposite, and this is based on evidence.

24 Last piece on this, you're going to see a series of
25 chats between Leissner and Low from 2014. You're going to see

1 it because Leissner's on the chat, and Leissner and Low are
2 talking about how Low is disappointed that he was not able to
3 be a private wealth management client of Goldman Sachs. And
4 you know what Leissner says, Leissner says, when I'm chairman
5 of Asia, I'll get you in. I'll get you in. Because by this
6 point, Roger's out of the bank. Roger's out of Goldman in
7 2014. Leissner says, when I'm chairman of Asia, I'll get you
8 in. So the protector of Low all along was Leissner, it wasn't
9 Roger. The evidence will show you this, time and time again.
10 I've given you three examples and there are dozens more. The
11 protector of Low was Leissner, it was never Roger.

12 So one of the things that I expect is going to come
13 out in the evidence is even though Roger said these things,
14 even though Roger said, watch out for Low, be careful of Low,
15 Jynwel is driving the process, he continued to try to do deals
16 with Low. No question about it. Let me tell you why. This
17 is what you're going to see in the evidence. Roger is a
18 process guy. No one ever told Roger don't deal with Low.
19 They told Leissner. You're going to see e-mails of people in
20 compliance telling Leissner, back off of Low, don't deal with
21 Low. But once you know what's in the evidence about Leissner,
22 I think you can readily conclude, Leissner wants Low.
23 Leissner is not going to share this with Roger. Leissner's
24 going to keep this to himself. So when you look in the
25 evidence, keep in mind, the most important distinction in this

1 case, the most important distinction in this case is between
2 Tim Leissner and Roger. They're not partners in crime, and
3 you're going to see that. There's a gulf between these two
4 men a mile wide, and that's what the evidence is going to show
5 you. And just because Leissner did something and just because
6 Leissner knows something, all that means is that Leissner did
7 it and Leissner knows it, and nothing else.

8 The Government referred to personal e-mail, that
9 part of the way that the Governments says there's proof beyond
10 a reasonable doubt is because Roger uses personal e-mails.
11 And I want you to really scrutinize this very carefully. And
12 here's what you're going to see, I expect several of the
13 Government's witnesses are going to tell you they use their
14 personal e-mails too at Goldman Sachs. I think one of the
15 first witnesses in the case might say that. So I don't know
16 if that's really all that here or there. What you're also
17 going to hear is that this is common. This is not uncommon
18 among Asian clients to ask for people's person e-mails. And
19 so Roger gave his personal e-mails.

20 What you're also going too see in the evidence is
21 that at different points in time, Roger was considering
22 leaving Goldman Sachs. He was working very hard, he's good at
23 what he does, and he was considering leaving Goldman Sachs to
24 open his own private advisory, you know, away from Goldman
25 Sachs. And you're going to see personal e-mails, sort of,

1 around that. And it's not going to implicate him. It has
2 nothing to do with this case. It's not going to show that
3 he's hiding Low. It's going to show that at one point he was
4 thinking about leaving Goldman Sachs, and you're also going to
5 hear from other government witnesses that the use of personal
6 e-mails is not all that uncommon, especially in Asia.

7 The Government mentioned the fact that he deleted
8 e-mail accounts, okay. You're going to find there was no
9 investigation going on, nothing was going on, no one was
10 asking about these things, and what you're going to hear about
11 the evidence is that he leaves Goldman Sachs, okay, he has
12 Goldman e-mails on his personal e-mail. He's not supposed to
13 have them. Okay. His father passes away in January of 2015,
14 February 2015 is Chinese New Year, shortly after Chinese New
15 Year and after his father passes away, he gets rid of a number
16 of e-mail accounts that he wasn't using. Part of the reason
17 he does is so that the Goldman e-mails that he probably should
18 have deleted from his personal e-mails, when he got them, he
19 gets rid of all of them. Rather than just deleting them one
20 by one, he just gets rid of them. You're going to find that
21 there's no conspiracy that involves Roger to do this. You're
22 going to find that, like I said, it's not like he got a
23 subpoena and destroyed the evidence. You're not going to find
24 anything like that.

25 All right. Let's go to 2012, because that's really

Opening Statement - Mr. Agnifilo

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1 where things start getting hop. So we have the lead up, we
2 have 2009, '10, '11, we've covered that. Now we're in 2012.
3 And what you're going to see in the evidence about 2012, 2012,
4 Leissner is a man on fire to start 2012. He's meeting with
5 everybody. He wants to make a big score. He's also thinking
6 about leaving Goldman. Leissner, you will size him up for
7 yourself, but he's a man who moves fast, gets a lot done in a
8 lot of different ways, and in January of 2012, he is having
9 meetings with a number of people, and this bond deal, the
10 first bond deal, what Goldman called, Project Magnolia, kind
11 of comes in the door.

12 So what's Leissner doing exactly? He's meeting with
13 someone named Ananda Krishnan. Ananda Krishnan is a Malaysian
14 billionaire, and he owns a company called Tanjong which owns
15 the power assets. So Leissner is meeting with Krishnan. And
16 you'll see the records of these meetings, over and over and
17 over. And he's had Ananda, Leissner, almost like as his
18 personal client, for about 10 years at this point. And part
19 of what he has with Ananda Krishnan is he has had --
20 Leissner -- a long long-term romantic relationship with one of
21 the key CEOs, one of the key chief executive officers in
22 Krishnan's companies, Rohana Rozhan. And we're going to talk
23 about her one more time in a minute. So Leissner has this
24 long-term relationship with Krishnan, they vacation together,
25 they go on yachts together, but he also has this long-term

1 relationship with Rohana Rozhan. So he's in. Leissner
2 doesn't -- Leissner is not a process guy. Roger is a process
3 guy. Leissner is not a process guy. Leissner is all about
4 how do I get a unique personal advantage. And you're going to
5 see that in the evidence. You're going to see that he uses
6 intimacy to get a unique personal advantage. And he does that
7 with Rohana Rozhan.

8 But he has another very important relationship.
9 There's someone named Jasmine Loo. Who is Jasmine Loo?
10 Jasmine Loo is the general counsel 1MDB. 1MDB is the
11 centerpiece of everything we're talking about this morning.
12 1MDB is a Malaysian company that basically is doing these bond
13 deals. It's an extension of the Malaysian government. And
14 probably the most person that you could know at 1MDB if you
15 want to get things done with 1MDB is Jasmine Loo. She's the
16 general counsel and she's just a dynamic person, and she's
17 just the person to know. Leissner knows that and Leissner has
18 a several-month romantic relationship with Jasmine Loo. And
19 there's going to be prove of it. There's going to be proof.

20 I don't know what he's going to come here and say,
21 but you know what you guys are going to see? Here's what you
22 guys are going to see, you guys are going to see the two of
23 them going away together, and you're going to see Leissner,
24 who never wants to pay for his own meal, dinner, breakfast,
25 Jasmine Loo, dinner, breakfast, Jasmine Loo. You guys are all

1 grown up. You'll know exactly what's going on. He's having a
2 romantic relationship with Jasmine Loo. One of the ways
3 you're going to see in the evidence that that's so is Jasmine
4 Loo sends him lyrics of a Kenny Rogers song -- can't make this
5 stuff up -- sad romantic Kenny Rogers. The two were in a
6 relationship.

7 Why is that important? We're not here to figure out
8 who likes who and who's having romantic relations with who.
9 Jasmine Loo is a public official. Leissner is having these
10 relationships to have the unique personal advantage, because
11 intimacy can help you do that, and Leissner uses intimacy to
12 do that better than anyone you might ever meet. Because when
13 you're sharing things, when you share intimacy with somebody
14 in whatever fashion, especially when that intimacy is
15 illicit -- because like Leissner, you're married, you're
16 married to Judy -- you have a bond with that person that you
17 can't recreate any other way. The two of you have this kind
18 of like dark trust, because you're in an intimate illicit
19 relationship and nothing is ever on the level again. For
20 instance, if Leissner and Jasmine Loo and two other people are
21 at a meeting, those two other people don't know things about
22 and between Leissner and Loo. It's a secret. And you will
23 see that Leissner uses this. Leissner, you will see in the
24 evidence, uses people. Leissner uses intimacy to get what he
25 wants, and what he wants, at the end of the day, is money.

1 He's all about money.

2 Unique personal advantage. Illicit intimate
3 relationships. He has them with Jasmine Loo. He has this
4 whole thing locked up. He has the seller of the power assets
5 in the first bond deal, Ananda Krishnan. He has the mover and
6 shaker from 1MDB.

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8 (Continued on the following page.)

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1 MR. AGNIFILO: (Continuing.) The point is, he
2 doesn't need Roger. Roger, you will see, plays no role. Tim
3 Leissner does not need Roger.

4 One of the things that I want to preview for you
5 guys in the evidence, in the spring of 2012. Leissner is
6 going to come in here and talk about a very interesting
7 meeting. Maybe it happened, maybe it didn't. You guys will
8 decide. Leissner is going to come here and testify that he
9 was given a letter from the Malaysian Prime Minister and that
10 he delivered that letter, Leissner. He delivered the letter
11 like he's a postman. He delivered that letter to someone
12 named Sheikh Mansoor. That's what he's going to come and tell
13 you, that he delivered this letter to Sheikh Mansoor. I want
14 you to really scrutinize this. And when you scrutinize this,
15 there are a couple of things that I want you to be thinking
16 about. On a number of occasions, when Leissner was married to
17 two women at the same time twice -- ready? I mean, I don't
18 want you to miss this. He was married to two different women
19 at the same time, two times. He was married to two women at
20 once at the same time. He was then married to two women again
21 at the same time. And when he got caught because one of them
22 said, hey, Leissner, I think you're already married, do you
23 know what he did? He forged fake documents, fake divorce
24 documents and said, no, I'm not, here's a divorce document.
25 And it's fake. When Leissner is on this witness stand talking

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1 about how he delivered a letter to Sheikh Mansoor and that
2 Sheikh Mansoor wrote a letter back, I want you to figure out,
3 is this really what happened? Because it's a very important
4 part of the case, so I wanted to preview it to you now.

5 One of the things that's a very important part of
6 this case, too, is Goldman Sachs compliance divisions. And I
7 am not going to go into all of them now because there are too
8 many to go into, but you're going to hear about this business
9 intelligence group, BIG, and you're going to hear about these
10 committees. Okay? And these committees form and the
11 committees, like, review the bond deals and all of these
12 things and it's an important part of the process. And it
13 really kind of showcases that Roger -- all these things that
14 the government is saying Roger did, Roger did, Roger did,
15 Roger is a small cog in this huge machine that is Goldman
16 Sachs with all of these committees and all of these, you know,
17 levels of review.

18 And so the committees are important and they're also
19 interesting. And one of the ways that they're interesting is
20 the committee, the main committee that's sort of passing on
21 this bond deal, takes a look at this meeting, Leissner says
22 everything is okay, the bond deal is going to be fine because
23 I, Tim Leissner, all by myself, brought a letter from the
24 Malaysian Prime Minister and hand delivered it to Sheikh
25 Mansoor, so the two countries, the two countries involved in

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1 this bond deal, are together and they're together because of
2 me, Tim Leissner. The Goldman Sachs committee says basically,
3 okay, that sounds plausible, that sounds like it might have
4 happened. You're going to hear Goldman Sachs was trying to
5 get a meeting with Sheikh Mansoor for years. They couldn't
6 get a meeting with him for years. Leissner hand delivers this
7 letter in secret, doesn't tell anybody, and then when he's
8 confronted about it, he lies about it. And despite all of
9 this, the Goldman Sachs committee is saying, you know, you
10 know one of the things -- this is in one of the committee
11 memos, you'll see it for yourself -- one of the things that
12 makes us feel good about this deal is that we have full
13 confidence that Tim Leissner had this meeting with Sheikh
14 Mansoor, that's one of the reasons we're going to go forward.

15 And so one of the things that I want you to think
16 about when you're listening to the evidence on this case, what
17 do these committees do? Are these committees here really to
18 get to the bottom of stuff? Are these committees really here
19 to make sure that we all live in a world that's more
20 consistent with truth and honesty? I don't think you're going
21 to reach that conclusion. The conclusion I think you're going
22 to reach is these committees do what's best for Goldman Sachs.
23 And you shouldn't expect them to do anything else, but don't
24 let them come in here and tell you that they're doing
25 something other than that. And you're going to listen to the

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1 evidence about that and you will a make up your own decision.

2 So in 2012, Leissner and Low join forces and a
3 number of things happen. After the bond deal closes, there is
4 the -- an Astro IPO. Now, I talked about Rohana Rozhan.
5 Rohana Rozhan, as you heard, is the CEO of Astro. What you
6 don't know yet is that the CEO of Astro is doing this IPO
7 which makes Goldman Sachs a lot of money. What Goldman Sachs
8 probably didn't know at the time is that Tim Leissner had
9 bought Rohana Rozhan not one but two houses. Okay? This is
10 the CEO of Astro that Goldman Sachs has as a client and Tim
11 Leissner has bought this client, the CEO of Astro, a house in
12 Melbourne, Australia and a house in London, and he's going to
13 come in here, Leissner, and say Roger did something?
14 Leissner, what you will see in the evidence, has this whole
15 situation locked down and he has it locked down because, among
16 other things, he himself, by himself, is buying homes for the
17 CEOs of the companies that are Goldman's clients. And that's
18 just one of the things that he does.

19 A very important thing happens on June 7, 2012.
20 What happens on June 7, 2012 is Jho Low, one of his people,
21 reach out to Leissner by e-mail: We want you to have a
22 meeting on June 11, 2012. We want you to be at a meeting in
23 another city. So Leissner has to go to another city on
24 June 11, 2012. And what Leissner does is, Leissner shows up
25 for work in his new job as a criminal associate of Jho Low.

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1 And do you know what happens that same day, the same day that
2 Leissner shows up to work? Low sends him \$35 million. Low
3 sends him \$35 million. Here's your signing bonus, Tim,
4 welcome to my employ. Same day. Not a different day, not a
5 day before, not a day later; the day that Leissner has to show
6 up at the meeting with Low. Low is no fool. This guy is
7 going to make me a lot of money, I'm going to make him a lot
8 of money. Here's \$35 million.

9 After this happens, Leissner and Low go on a
10 criminal rampage, the two of them. The two of them. Leissner
11 and Low start committing bank fraud. They commit bank fraud
12 starting on October 25th, 2012 because the second deal,
13 Genting -- Genting is the second of the three deals,
14 Project Maximus -- after the Genting deal closes, guess what
15 happens? Genting directly sends a company called World Merit,
16 Leissner's company, 30, three-zero, million dollars. And
17 Leissner sends a little less than half of that out to someone
18 you'll hear about in the evidence who is associated with the
19 owner of Genting. But to do it, they create fake contracts.
20 And the "they" is Leissner and his wife Judy. And you will
21 see the e-mails between them. And they basically create a
22 bogus contract between their company, World Merit, and a
23 company called Vielle, which is getting the money -- which is
24 the company that this person is using to get the money. And
25 the contract is false because, in fact, these two companies

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1 have nothing to do with each other, they don't have actual
2 business together, but the contract says that this money is
3 for actual business. You will not see Roger anywhere around
4 this stuff. This is Leissner and Judy and it's Leissner
5 paying out Low's money because he's working for Low, him and
6 him alone.

7 It happens again and again and again and you're
8 going to see it every time. And you know what it is every
9 time? It's bank fraud every time. And when the government
10 says he's pleading guilty to what he did, no he's not. No
11 he's not. He committed bank fraud over and over and over and
12 over.

13 Let me give you another example, because this is an
14 important one for Low. Low wants to open a bank account at a
15 bank called Banque Havilland. Banque Havilland is in the
16 United Kingdom, having a hard time doing it. His employee,
17 Tim Leissner, will help him. From Leissner's home in
18 Los Angeles, Leissner creates a bogus -- he forges -- a common
19 term you're going to hear when it comes to Leissner -- he
20 forges a Goldman Sachs letter on Goldman Sachs letterhead that
21 says that Goldman Sachs has done due diligence on Jho Low and
22 Goldman Sachs has no concerns that Low is laundering money and
23 that Goldman Sachs has no concern that Low is involved in
24 terrorist financing. Now, there's no evidence that Low is
25 involved in terrorist financing, but that is a heck of a lie

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1 that Leissner made, and he's lying directly to Banque
2 Havilland so that Banque Havilland will take Low on as a
3 client. And he's lying about Low not being a money launderer
4 and saying no reason to fear, Goldman Sachs checked this guy
5 out, no terrorist financing here. He got a pass. He got a
6 pass. He's not pleading to that. He gets a pass.

7 The last bank fraud that I'm going to talk about
8 today; not the last bank fraud in the case by a long stretch,
9 the last one I'm going to talk about today, Leissner is
10 getting funding for his yacht from C1 Bank and he lies to C1
11 Bank. Now, no bank fraud is good, every bank fraud is bad.
12 Committing bank fraud to finance your yacht? Really? That's
13 their guy. That's their guy. He gets a pass on all of it.

14 One last crime and then I'm going to sit down. In
15 the latter part of the case, 2014-2015, Leissner's doing work
16 for a company called Celsius. Okay? Celsius is a soft drink
17 company. It says that if you drink it, like it burns calories
18 and stuff. Leissner's working with them. He's soliciting
19 investors. One of the people that he gets to invest is this
20 gentleman right here, the man that he's going to come in and
21 testify against. He takes over one and a half million dollars
22 from him and steals it. You heard me right. The government's
23 star witness stole the defendant's money and is getting a pass
24 from the government. Do you know how you're going to know
25 that Leissner, the government's star witness, the only witness

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1 who is going to say that this gentleman did anything wrong, do
2 you know how you're going to know that Leissner was stealing
3 his money from the get-go? Because I'm going to tell you,
4 because it's in an e-mail. When he gets part of the money, he
5 says, this money is from Roger, my accountant. What he's
6 saying is, it's my money, it's not Roger's money; Roger is my
7 accountant, Roger is giving you my money. And you know what
8 that's going to mean to you? He was stealing it from the
9 door. He was stealing it from jump street. He stole Roger's
10 money and he's going to come in here and testify against him,
11 and the government's giving him a pass on it.

12 Leissner uses people. You will see that time and
13 time again. He uses women, he uses false intimacy, and here
14 he is trying to use my client. And what he's trying to use my
15 client to do is to serve his jail time. That is what he is
16 trying to use Roger to do. And I think that when you listen
17 to all the evidence and you listen to how the government has
18 handled Leissner, you will reach the conclusion that they're
19 not holding him accountable. And so you know what we need?
20 We need you to hold him accountable. We need you to say, I am
21 not going to believe him, I am not going to believe a word he
22 says and without him, I am not going to believe this case.

23 One of the -- maybe the best thing about this
24 country, really might be the best thing -- a lot of people
25 are, you know, sort of down on our country. The best thing is

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1 that we have the jury system. We don't trust governments to
2 do this. We trust people, just people, just folks. We trust
3 you to do this. And maybe the most important commitment this
4 country has ever made is that, as it concerns literally every
5 single human being on this earth no matter where they're from,
6 no matter what country they live in, no matter where they were
7 born, every single human being on Earth, standing between
8 every single human being on Earth and a criminal conviction is
9 a group of 12 Americans. You are those 12 Americans. Right
10 now you're more; one day you'll be 12. You are those 12
11 Americans, and Roger needs you. And the only part about the
12 government's opening statement that I agree with is I want you
13 to use your common sense, I want you to pay close attention to
14 the evidence, and I want you to reach a verdict that's
15 consistent with the facts. And when you do those things, you
16 will send this man back home to his family.

17 Thank you.

18 THE COURT: Thank you, Counsel.

19 It is 11:36. We are going to break for 15 minutes
20 for our morning break. I promised you a 15-minute break.
21 Ms. Valentine will escort you back to the jury deliberation
22 room and I will see you in 15 minutes.

23 THE CLERK: All rise.

24 THE COURT: Please remember not to discuss the case.

25 (Jury exits.)

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1 THE COURT: Please be seated, everyone.

2 I see the government has its first witness ready to
3 go.

4 MR. ROLLE: We do, Your Honor.

5 THE COURT: Okay.

6 MR. ROLLE: Judge, we want to raise two points from
7 openings just now, two comments that I think deserve followup,
8 at least from Your Honor potentially, but Mr. Agnifilo made a
9 comment to the jury about telling them that they're going to
10 be able to figure out for themselves why it is that this
11 particular defendant is here on trial. In my estimation,
12 based on how the context was presented, goes back to exactly
13 what we moved to preclude him from, the idea that this
14 defendant, by -- whether it's his nationality or something
15 else, that that's the true reason. The jury is not here to
16 speculate why this defendant is on trial. He's on trial
17 because he's on trial. And so we didn't object, but we -- we
18 can go back to the transcript, but I think it was entirely
19 improper and should be -- they should be asked to disregard
20 that.

21 THE COURT: You can go back to the transcript and
22 raise it to me, but I did not hear anything inappropriate.

23 MR. ROLLE: We'll flag that, Your Honor.

24 And then secondly, almost as he closed he said that
25 the government's witness wants to use the defendant to do his

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1 jail time. Again, we think this is entirely improper to sort
2 of raise the punishment in his opening and to suggest that
3 that was what was happening here, Judge.

4 THE COURT: Well, I agree that some of
5 Mr. Agnifilo's statements were more arguments that were
6 probably more appropriate for summation, but I do not believe
7 that it is anything that is prejudicial and that I need to
8 raise with the jurors. If you believe there is something
9 specific in the transcript that maybe I missed in listening to
10 the opening that you want to bring to my attention, I will
11 consider it, but while it did appear more as a summation, I am
12 not sure that there is anything there that I need to address
13 with the jury.

14 Mr. Agnifilo, would you like to be heard?

15 MR. AGNIFILO: Yes.

16 I in no way suggested any Malaysian prejudice. And
17 Tim Leissner is going to testify as to what his view of his
18 own jail exposure is, so that's going to be part of the
19 evidence one way or the other.

20 THE COURT: It will be, but the jury is not allowed
21 to consider what possible punishment Mr. Ng would face. But
22 again, I did not perceive the statement at the end as
23 suggesting that, so I will hear from the parties later on at
24 the next break if you believe there is something that I need
25 to address with the jury in listening to the statements. I do

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1 not believe there is anything that I really need to address.

2 Okay?

3 MR. ROLLE: Thank you, Judge.

4 THE COURT: I will see the parties in a few minutes.

5 MR. INTRATER: Thank you, Your Honor.

6 (Recess taken.)

7 (Jury enters.)

8 (In open court; jury present.)

9 THE COURT: Please be seated, everyone. Thank you
10 for being on time. We are going to hear from the government's
11 first witness.

12 Can the government please identify the witness for
13 the record?

14 MS. SMITH: Yes, Your Honor.

15 The government calls Andy Tai.

16 THE COURT: Mr. Tai -- please have a seat,
17 Ms. Smith, until the witness is sworn.

18 Please stand and raise your right hand.

19 THE CLERK: Do you solemnly swear or affirm that the
20 answers you're about to give to the Court will be the truth,
21 the whole truth and nothing but the truth?

22 THE WITNESS: I do.

23 (Witness sworn.)

24 THE CLERK: State your name for the record.

25 THE WITNESS: Andy Tai.

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1 THE COURT: You may be seated, Mr. Tai.

2 Please proceed, Ms. Smith.

3 MS. SMITH: And, Your Honor, I am just going to move
4 over to the podium.

5 THE COURT: Okay.

6 MS. SMITH: Thank you.

7 THE COURT: Can you spell your last name for the
8 record, Mr. Tai?

9 THE WITNESS: T-a-i.

10 THE COURT: T-a-i.

11 Can you speak into the mike, please?

12 THE WITNESS: T-a-i.

13 THE COURT: Thank you.

14 Please proceed, Ms. Smith.

15 MS. SMITH: Is the microphone working?

16 No?

17 Can you hear me now?

18 THE COURT: It is working when you hit it, but when
19 you speak we are not hearing you through the mike.

20 MS. SMITH: Hello?

21 THE COURT: Still cannot hear you through the mike.

22 Do you have another mike, Winnie?

23 THE CLERK: Actually, no, Judge.

24 THE COURT: And, ladies and gentlemen of the jury,
25 the reasons that we have to make sure the mike is working, as

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1 I indicated at jury selection, normally the jury would be
2 sitting in the jury box, the witness would be sitting in the
3 witness chair and the public would be sitting where you are.
4 Because you are sitting in the gallery of the courtroom, the
5 public cannot sit in this courtroom with us. As a result, we
6 have an overflow room and the only way for them to hear us
7 speak is if we utilize the mike. So we have to make sure the
8 mikes are working so that the public can observe and follow
9 the trial as we go along. So thank you for your patience and
10 understanding as we work with making sure that the mikes are
11 working.

12 THE CLERK: Judge, IT is on their way over.

13 THE COURT: Okay. Does that have a long enough
14 extension cord?

15 THE CLERK: No.

16 (Pause.)

17 THE COURT: Some things are out of our control.
18 These mikes were tested this morning, they worked fine. But
19 now that one is not working, so the IT department will be
20 right back with a substitute. Thank you for your patience.

21 (Pause.)

22 Members of the jury, thank you for your patience.

23 Ms. Smith, you may proceed with your questioning of
24 Mr. Tai.

25 Mr. Tai, for purposes of your testimony, you may

Tai - Direct - Smith

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1 remove your mask. Thank you.

2 And, ladies and gentlemen of the jury, as you can
3 see, we have a screen in front of the witness and there is
4 also a HEPA filter to ensure everyone's safety.

5 Please proceed, Ms. Smith.

6 **ANDY TAI**, having been first duly sworn, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MS. SMITH:

10 Q Good afternoon, Mr. Tai.

11 Where do you currently live?

12 A I live in Singapore.

13 Q And did you travel from Singapore to testify today?

14 A That's correct.

15 Q Where do you currently work?

16 A I work at Goldman Sachs.

17 Q How old are you?

18 A I am 39 this year.

19 (Pause.)

20 THE COURT: Please proceed, Ms. Smith.

21 Q Where were you born?

22 A I was born in Singapore.

23 Q Did you also grow up in Singapore?

24 A That's correct.

25 Q And what is your highest level of education?

Tai - Direct - Smith

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1 A I have an undergraduate degree in business and finance.

2 Q Where did you get undergraduate degree?

3 A The University of Michigan.

4 THE COURT: Can I ask you to speak up, please?

5 Because we are still not hearing you through the mike.

6 A From the University of Michigan.

7 THE COURT: Thank you.

8 Q And what did you do after you finished college at the
9 University of Michigan?

10 A I joined an investment bank, UBS, in Los Angeles.

11 Q How long were you there?

12 A For a year.

13 Q And what did you do after that year at UBS?

14 A I joined Goldman Sachs in New York as an analyst in
15 investment banking.

16 Q And you said that Goldman Sachs is where you currently
17 work?

18 A That's correct.

19 Q Before we go any further, can you tell us what Goldman
20 Sachs is?

21 A Goldman Sachs is a global investment bank headquartered
22 in New York. We are a publicly listed entity on the NYSE
23 engaging in investment banking activities.

24 Q And you said NYSE. What is that?

25 A The New York Stock Exchange.

Tai - Direct - Smith

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1 Q And what do you mean by an investment bank?

2 A As an investment bank, we mainly deal with two principal
3 activities, one which is what we call the advisory part of the
4 business; we advise our clients on merger and acquisitions and
5 similar type transactions. The other piece that we kind of
6 work on are what we call capital markets or capital raising
7 activities whereby we help clients raise capital through
8 either typically equity or debt securities.

9 Q How does an investment bank differ from say a bank on the
10 corner where you go and use the ATM?

11 A So an investment bank, our main clients tend to be
12 corporates; i.e., companies, as well as, you know, financial
13 institutions like investment funds, private equity, whereas
14 for, you know, the other examples you mentioned, these tend to
15 focus more on individuals or retail investors.

16 Q You mentioned companies and investment funds as clients
17 of Goldman Sachs. What other clients does Goldman Sachs have?

18 A We have -- so other clients would be, you know, private
19 equity, corporates, sovereign wealth funds, venture
20 capitalists, venture funds. You know, from time to time you
21 may get banking officers and advise high net worth
22 individuals, but those are the main ones.

23 Q You mentioned a sovereign wealth fund. What is a
24 sovereign wealth fund?

25 A A sovereign wealth fund tends to be an investment fund

Tai - Direct - Smith

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1 that is wholly owned by a government. The funds within the
2 sovereign wealth funds typically are government reserves or
3 could be pension money, things like that, yes.

4 Q You also said that Goldman Sachs was a public company
5 listed on the New York Stock Exchange. What does that mean?

6 A So we are publicly listed, so our shares of stock are
7 traded on the stock exchange. So anyone who wants to buy a
8 share in Goldman Sachs and become a shareholder, you can just
9 buy it from the New York Stock Exchange.

10 Q You said that New York was the global headquarters of
11 Goldman Sachs?

12 A That's correct.

13 Q Where else does Goldman Sachs have offices?

14 A We have offices in London, Chicago, L.A. In Asia it
15 would be Hong Kong, Beijing, Shanghai, Singapore.

16 Q Are the offices organized into regions at all?

17 A Yes, we do. Tends to be the Americas. Europe is its own
18 region. We have what we call Japan as a region and then
19 Asia ex-Japan.

20 Q And how big is Goldman in terms of number of people
21 globally?

22 A Globally, we have about 40,000 employees, approximately.

23 Q So turning back to your work at Goldman, what is your
24 current title?

25 A Right now I'm a managing director with Goldman Sachs.

Tai - Direct - Smith

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1 Q When you first joined Goldman, what was your position?

2 A I was an analyst.

3 Q Have you held other positions while at Goldman?

4 A Yes. So in line with kind of the years that I worked
5 with Goldman, so I start as an analyst, then associate, vice
6 president and managing director now.

7 Q And when were you promoted from associate to vice
8 president?

9 A I was promoted in 2012.

10 Q And when were you promoted from vice president to
11 managing director?

12 A 2019.

13 Q Is that considered an accomplishment to become a managing
14 director?

15 A I would think so, yes.

16 Q And is that progression sort of, associate analyst, vice
17 president, managing director, the normal route for promotion
18 at Goldman Sachs?

19 A That's correct.

20 Q Is there a level above managing director?

21 A Yes. We call it partner.

22 Q What were your responsibilities in sort of your earlier
23 time period at Goldman when you were an associate?

24 A An associate, I would be the one helping the senior
25 members of the team to conduct diligence, do analysis and help

Tai - Direct - Smith

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1 them prepare documents for client meetings. And from time to
2 time, I may also coordinate with, you know, various parties on
3 their transactions for meetings or -- yeah, for meetings
4 basically.

5 Q And how did those responsibilities change when you became
6 vice president?

7 A As you get more senior, I would say that probably, you
8 know, in terms of client interactions, that's probably much
9 more, as well as I think in terms of kind of the
10 decision-making and kind of access to information is probably
11 more because you deal more with the clients at that point.

12 Q And then how did your responsibilities change again when
13 you were promoted to managing director?

14 A So as managing director, my responsibilities are -- I
15 think one -- you know, I still have a lot more client
16 interactions, client meetings, and the idea is now for me to
17 go find clients and find business for Goldman Sachs. On top
18 of that, I also manage a team now within Singapore that's
19 suppose to -- that includes associates and vice presidents
20 that help me kind of advise and find clients.

21 THE COURT: Mr. Tai, I am going to ask you to keep
22 your voice up so that we can hear you.

23 THE WITNESS: Sorry.

24 THE COURT: Thank you. It's alright.

25 Q And you said one of your responsibilities as a managing

Tai - Direct - Smith

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1 director is to go out and get business?

2 A That's correct.

3 Q As a managing director, do you have signatory authority
4 for the company?

5 A For the entities that I am assigned to. So today, for
6 example, it would be Goldman Sachs Singapore.

7 Q And what does signatory authority mean?

8 A I can sign engagement letters or nondisclosure agreements
9 representing the fund.

10 Q And did you have authority as a vice president?

11 A No.

12 Q So it's something that comes with being a managing
13 director?

14 A That's correct.

15 Q During your career at Goldman, how many hours did you
16 sort of work in a typical week?

17 A On average, I would think about probably 80 to 90 hours a
18 week.

19 Q And has that been consistent throughout your entire
20 career?

21 A Yes, it is.

22 Q How about travel? Do you travel frequently for work?

23 A Yes, I do.

24 Q And has that been consistent throughout your career at
25 Goldman?

Tai - Direct - Smith

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1 A Yes.

2 Q And how do you get paid for your work?

3 A I have a salary and then an annual bonus that we'll get,
4 you know, typically in January or February.

5 Q Is your bonus tied to the performance that you -- at the
6 firm?

7 A Yes.

8 Q And do you receive any other compensation from Goldman
9 for your work?

10 A No.

11 Q Do you receive shares for the work that you do?

12 A Yes, I receive shares, but that's typically under the
13 bonus.

14 Q And does that make you then a stockholder of Goldman?

15 A Yes.

16 Q So going back to your time when you first joined Goldman,
17 where were you working again?

18 A Sorry, can you repeat that?

19 Q When you first joined Goldman, where physically were you
20 working?

21 A I was working in the New York office.

22 Q Where is the New York office located?

23 A Back then was 85 Broad Street.

24 Q Is that in Downtown Manhattan?

25 A Downtown. It's close to Wall Street.

Tai - Direct - Smith

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1 Q And you said that that was Goldman's global headquarters;
2 is that right?

3 A Yes, but back then.

4 Now I think we moved our headquarters to 200 West
5 Street, yes.

6 Q Is 200 West Street also in Manhattan?

7 A That's correct.

8 Q When you joined Goldman in 2007, were you working in a
9 particular group or a division?

10 A I was working in what we call our -- it was in investment
11 banking. The stock group is what we call telecom media and
12 technology, so the TMT group.

13 Q And what does that group do?

14 A We focus mainly on clients within the technology media
15 and telecom space. And same thing, advising them of typical
16 investment banking activities, such as mergers and
17 acquisitions, advisory and capital markets.

18 Q How long did you work in Goldman's New York office?

19 A I worked there from '07 to end of '09.

20 Q What happened in 2009?

21 A At the end of 2009, I transferred back to Singapore and
22 started working in the Singapore office.

23 Q So you began working in the Singapore office in 2010?

24 A That's correct.

25 Q How long did you work in the Singapore office?

Tai - Direct - Smith

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1 A I worked there from January 1st, 2010, all the way until
2 November 2017.

3 Q And then what office did you move to in 2017?

4 A Hong Kong.

5 Q And where are you currently?

6 A So I moved back to Singapore about two weeks ago, so I am
7 currently in the Singapore office.

8 Q Okay. Earlier you talked about how Goldman's offices are
9 arranged into regions. What region is the Singapore office
10 located in?

11 A It is under Southeast Asia, which is under what we call
12 Asia ex-Japan.

13 Q And what countries are covered by this Southeast Asia
14 region?

15 A So typically it's the Asian countries, so Singapore,
16 Malaysia, Thailand, Philippines, Vietnam and Indonesia and the
17 rest of the Indochina countries.

18 Q And where in Southeast Asia does Goldman have offices?

19 A We have offices in Singapore and Malaysia and Indonesia.

20 Q And where in Malaysia does Goldman Sachs have an office?

21 A Kuala Lumpur.

22 Q I am going to show you what has been marked as Government
23 Exhibits 51 and 51-A for identification, and those are in the
24 binder next to you at Tabs 1 and 1-A and then it should also
25 be on your screen.

Tai - Direct - Smith

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1 Do you recognize these documents?

2 A Yes, I do.

3 Q What are they?

4 A It's a map of Asia.

5 Q And based on your experience in that region, are these
6 fair and accurate representations of the Southeast Asia region
7 and Malaysia?

8 A Yes.

9 MS. SMITH: Your Honor, we move to admit Government
10 Exhibit 51 and Government Exhibit 51-A.

11 MR. AGNIFILO: No objection, Your Honor.

12 THE COURT: Admitted.

13 (Government's Exhibits 51 and 51-A received in
14 evidence.)

15 Q So let's start with Government Exhibit 51.

16 MS. SMITH: And can we zoom in on that a little bit?

17 Thank you.

18 Q So can you tell the jurors where Singapore is on the map?
19 I know it's not a touchscreen, so if you can just describe it
20 and then Mr. Youkilis can circle it.

21 A It's north of Indonesia. It's a very -- at the end of
22 the -- that kind of peninsula.

23 Yes, that's correct.

24 Q And is Singapore a city or a country?

25 A It's both. (Continued on the next page.)

Ta - Direc - Smith

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1 DIRECT EXAMINATION

2 BY MS. SMITH: (Continuing.)

3 Q Is Singapore a city or a country?

4 A It's both.

5 Q And then you also mentioned that Goldman had an office in
6 Kuala Lumpur in Asia. Can you tell me where that is on the
7 map in relation to Singapore?

8 A So it's on the map if you move the circle slightly up to
9 the northwest, you can -- yeah, that's correct.

10 Q And have you traveled between Singapore and Kuala Lumpur
11 for work?

12 A Yes.

13 Q How long does it take to travel there by plane?

14 A Less than an hour.

15 Q You also said that Goldman has an office in the region in
16 Hong Kong.

17 Can you tell us where that is on the map?

18 A Sorry, Indonesia, right. So Indonesia would be in
19 Jakarta, so all the way south. And then Hong Kong is just
20 Hong Kong by itself.

21 Q Okay. And can you explain where Hong Kong is in relation
22 to Singapore?

23 A It's a four-hour flight, kind of, northeast, so if you
24 see Cheung Chau -- yeah, south of Cheung Chau, that's right.

25 MS. SMITH: And can we now show the witness

Tai - Direc - Smith

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1 Government's Exhibit 51A?

2 BY MS. SMITH:

3 Q What does this document show?

4 A It is a map of Malaysia.

5 Q And so is it just a close-up of what we saw on the other
6 map?

7 A That's correct.

8 Q Can you again point out where Singapore and Kuala Lumpur
9 are on the map?

10 A Singapore is -- so it's at the southern tip of Malaysia;
11 and Kuala Lumpur is in the middle of the peninsula on the west
12 side. Yes, that's correct.

13 Q And given how close Singapore is to Malaysia, is it
14 possible to live in Malaysia and commute to Singapore for
15 work?

16 A Yes.

17 MS. SMITH: So, Mr. Youkilis, if you can take that
18 down.

19 Thank you.

20 BY MS. SMITH:

21 Q So let's talk about when you joined the Singapore office
22 in 2010.

23 Were you working in any particular division in
24 Singapore?

25 A The investment banking division.

Tai - Direc - Smith

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1 Q Just remind us what your position was at that time.

2 A When I joined, I was an associate.

3 Q And did you stay in the investment banking division the
4 entire time you were in the Singapore office 2010 to 2017?

5 A That's correct.

6 Q When you first joined, how many people were in investment
7 banking in that office?

8 A About 25 of us.

9 Q And what was Goldman's investment banking business in the
10 Southeast Asia region like at that time?

11 A We did all the investment banking, kind of, advisory
12 to -- talk about activities that I mentioned before. And in
13 terms of the activity, it's fairly busy. We did, you know, a
14 lot of transactions in Singapore, Malaysia, Indonesia,
15 Thailand. Those were the main markets.

16 Q Were there bankers who had primary responsibility for
17 particular countries within the Southeast Asia that region?

18 A Yes. We would have what we call country heads that was
19 in charge of the countries.

20 Q And what did it mean to be a country head?

21 A They would be the main banker in charge of local clients
22 within those countries, so they had to find the clients in
23 those countries, maintain contact with those clients, be the
24 one basically, you know, closest to -- closest in maintaining
25 dialogue with clients.

Tai - Direct - Smith

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1 Q And based on your work in the region, is there any
2 particular benefit to having someone serve as a country head?

3 A Typically, the country heads tend to be locals, so they
4 would have a better understanding culturally about the local
5 clients. They typically would have grown up in the country as
6 well, so they have a better network as well, so these are all
7 benefits that -- that's why we have country heads.

8 Q When you joined the Singapore office in 2010, who was the
9 country head for Malaysia?

10 A Roger Ng.

11 Q Did you work with Mr. Ng during your time in the
12 Southeast Asia region?

13 A Yes, I did.

14 Q Do you see Roger Ng in the courtroom today?

15 A Yes.

16 Q Can you please describe where he is in the courtroom and
17 identify him by a piece of clothing that he's wearing?

18 A He's at the back benches wearing a dark tie, white shirt.

19 MR. AGNIFILO: He identified the defendant, Your
20 Honor.

21 THE COURT: Let the record reflect that the witness
22 has identified the defendant, Roger Ng.

23 BY MS. SMITH:

24 Q Mr. Tai, you said that Roger Ng was the country head from
25 Malaysia when he first started. What title did he have at

Tai - Director - Smith

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1 that point?

2 A He's managing director, head of Malaysia coverage.

3 Q Was he therefore senior to you at that time?

4 A Yes.

5 Q In the, sort of, 2010 to early 2012 time frame, did you
6 work on any transactions with Roger Ng?

7 A Yes.

8 Q What were those transactions?

9 A We -- the first one I did, I remember, was trying to get
10 the Malaysian client to list their real estate assets.
11 Another one was advising a local Malaysian high net worth
12 client to buy a luxury business in Malaysia.

13 Q And so when you joined the Singapore office in 2010, who
14 was in charge of investment banking in the region at the time?

15 A Tim Leissner.

16 Q What was Tim Leissner's position at that time?

17 A He was a partner and head of Southeast Asia.

18 Q Did you work with Mr. Leissner during your time in the
19 Southeast Asia region?

20 A Yes.

21 Q I'm going to show you what has been marked for
22 identification as Government's Exhibits 1 and 2, which will
23 come up on your screen, and should also be behind tab 34.

24 Do you recognize these documents?

25 A Yes.

Ta. - Direc. - Smith

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1 Q And what are they?

2 A The left one is a picture of Roger, and the right one is
3 a picture of Tim Leissner.

4 Q And are these fair and accurate depictions of Roger Ng
5 and Tim Leissner?

6 A Yes.

7 MS. SMITH: Your Honor, the Government moves to
8 admit Government's Exhibits 1 and 2.

9 MR. AGNIFILO: No objection, Your Honor.

10 THE COURT: They're admitted.

11 (Government's Exhibit 1 and 2 received in evidence.)

12 BY MS. SMITH:

13 Q So now that the jury can see them, Government's Exhibit
14 is on left.

15 Who is depicted in that photograph?

16 A On the left? Roger. Roger.

17 Q And Government's Exhibit 2 is depicted on the right. Who
18 is in that photograph?

19 A Tim Leissner.

20 Q And you said that you worked with Tim Leissner. In that
21 same, sort of, 2010 to early 2012 time frame, what
22 transactions did you work on with Tim Leissner?

23 A Tim was also involved in the lottery business I mentioned
24 as well. We also kind of talking to various private equity
25 kind of investors in Southeast Asia for ideas.

Tai - Direc - Smith

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1 Q And the lottery business you mentioned, was that a deal
2 that Roger Ng worked on as well?

3 A That's correct.

4 Q Earlier you said that throughout your career you worked
5 long hours and traveled frequently.

6 Was that the same when you were in the Singapore
7 office?

8 A That's correct.

9 Q Did you often work long hours with Roger Ng and Tim
10 Leissner?

11 A Yes.

12 Q And did you travel with Roger Ng and Tim Leissner?

13 A Yes.

14 Q As a result, did you have an opportunity to observe them
15 together?

16 A Yes.

17 Q Based on your observations, how would you describe your
18 working relationship?

19 A They were very close and always in contact.

20 Q And did Roger Ng stay in the investment banking division
21 the entire time that you were in the Singapore office?

22 A No. After -- he moved to the securities division.

23 Q And how is the securities division different than the
24 investment banking division?

25 A So investment banking, like I mentioned, we can advise

Ta - Direc - Smith

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1 corporate clients mainly on advisory in capital markets. In
2 the securities, they deal with more funds to do sales and
3 trading of securities, so it's more of a trading business.

4 Q So when Roger Ng moved over to the securities division,
5 does that -- did that mean he was no longer in the same group
6 as you and Tim Leissner?

7 A That's correct.

8 Q Did you continue to work with Roger Ng on deals even
9 though he wasn't in the investment banking division?

10 A Sometimes he -- yes.

11 MS. SMITH: Mr. Youkilis, you can take those two
12 down.

13 Thank you.

14 BY MS. SMITH:

15 Q So I would like to turn your attention to early 2012. At
16 this point, you're still in the Singapore office; is that
17 right?

18 A That's correct.

19 Q And what was your title at that point?

20 A In 2012; right?

21 Q Yes.

22 A Vice president.

23 Q Were you still working with Roger Ng and Tim Leissner?

24 A Mainly Tim, but, yes, I think Roger would be involved in
25 some transactions.

Tai - Direc - Smith

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1 Q At that time, did you work on any transactions with Tim
2 Leissner and Roger Ng related to an entity called 1MDB?

3 A Yes.

4 Q What is 1MDB?

5 A 1MDB -- 1 Malaysia Development Berhad -- was a sovereign
6 wealth fund that was wholly-owned by the government of
7 Malaysia. It's mandate was to partner with foreign sovereigns
8 to get foreign -- foreign direct investments into -- into
9 Malaysia.

10 Q And can you remind us what a sovereign wealth fund is
11 again?

12 A A sovereign wealth fund is an investment -- the deal
13 investment fund that's wholly-owned by the government.
14 Typically, the funds are government reserves, pension money.
15 In some ways, you have that in the U.S. as well. It's like a
16 municipal fund. It's kind of similar concept where they're
17 supposed to invest in public money.

18 Q Based on your experience, what are the economic benefits
19 to a country like Malaysia of having a sovereign wealth fund
20 like 1MDB?

21 A I would say two broad buckets. One is they would deploy
22 the capital to make investments and you generate an economic
23 return on those investments.

24 The second broad bucket will be, you know, by
25 getting foreign investments, you are creating more jobs and

Ta. - Direc. - Smith

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1 more economic value into the local Malaysia economy.

2 Q So who ultimately benefits if a sovereign wealth fund
3 like 1MDB is a success?

4 A The people of Malaysia.

5 Q Who at Goldman was responsible for the relationship with
6 1MDB?

7 A Tim and Roger.

8 Q And when you say "Tim and Roger," you mean Tim Leissner
9 and --

10 A Tim Leissner and Roger Ng.

11 Q You said you worked on financing transactions related to
12 1MDB.

13 How many were there?

14 A So there were three financing transactions.

15 Q At Goldman, how do bankers refer to specific
16 transactions?

17 A So there's a project code for each of the transactions.

18 Q And so what was the project code for the three financing
19 transactions that you worked on related to 1MDB?

20 A It was Magnolia, Maximus, and Catalyze.

21 Q And who at Goldman did you work on these transactions
22 with, in general?

23 A So Tim Leissner, Roger Ng, Andrea Vella, Jonathan Dunne,
24 Toby Watson, Cyrus Shey, among others. There was quite a big
25 team.

1 Q Who is Andrea Vella?

2 A Andrea Vella, at that point in time, was head of what we
3 call financing group, so he was in charge of equity, capital
4 markets, and debt capital markets.

5 Q What was his position at Goldman at that time?

6 A He was a partner.

7 Q Did you work with anybody at 1MDB on these projects?

8 A Yes, I did.

9 Q Who at 1MDB did you work on in connection with these
10 projects?

11 A Sorry, mainly dealt with Vincent Koh, Jerome Tun, Jasmine
12 Loo, and Terence Geh.

13 Q Did you meet these four individuals in person?

14 A Yes, I met them in person before.

15 Q On what occasions did you meet them?

16 A During client meetings.

17 Q How often do you think you met them during the time
18 period of the deals?

19 A I saw -- during the deal, I saw Vincent Koh and Jerome
20 Cuomo as they were making the investments on acquisitions. I
21 would see Jasmin and Terence from time to time.

22 Q I'm going to show you what have been marked as
23 Government's Exhibits 8, 9, 10, and 11, all of which are
24 behind tab 34.

25 Do you recognize these documents?

Tai - Direc - Smith

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1 A Yes.

2 Q What are they?

3 A The left side, it's a picture of Jasmine Loo. The right
4 side is a picture of Terence Geh.

5 MS. SMITH: If you can also just put up 10 and 11.

6 BY MS. SMITH:

7 Q Do you recognize these photographs as well?

8 A The left is a picture of Vincent Dunne. The right is
9 Jerome Koh -- I'm sorry, Vincent Koh and then the right is
10 Jerome Tun.

11 Q And are these fair and accurate representations of the
12 individuals in these photographs?

13 A Yes.

14 MS. SMITH: Your Honor, the Government moves to
15 admit Government Exhibits 8, 9, 10, and 11.

16 MR. AGNIFILO: No objection, Your Honor.

17 THE COURT: Admitted.

18 (Government's Exhibit 8, 9, 10, and 11 received in
19 evidence.)

20 MS. SMITH: And, Mr. Youkilis, can we start with
21 Government's Exhibit 8?

22 BY MS. SMITH:

23 Q Mr. Tai, who is depicted in this photograph?

24 A Jasmine Loo.

25 Q What was Jasmine Loo's role at 1MDB?

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1 A She was the general counsel.

2 Q What interactions did you have with her on those three
3 projects?

4 A She -- she was in -- she was in charge of the legal
5 documentations, so from time to time, I would see her as we
6 were negotiating the documents.

7 MS. SMITH: And, Mr. Youkilis, can we put up
8 Government's Exhibit 9?

9 BY MS. SMITH:

10 Q Who is the person in this photograph?

11 A Terence Geh.

12 Q What was Terence Geh's role in 1MDB?

13 A He was the deputy treasurer of 1MDB.

14 Q And what were your interactions with Terence Geh like?

15 A Sorry, I think he was the treasurer of 1MDB.

16 Q Okay.

17 A Deputy CFO. He was in charge of the funds management --
18 handling the money of 1MDB.

19 MS. SMITH: Can we put up Government's Exhibit 10?

20 BY MS. SMITH:

21 Q And who is depicted in Government's Exhibit 10?

22 A Vincent Koh.

23 Q What was his role at 1MDB?

24 A He was the chief investment officer.

25 Q And?

1 MS. SMITH: And then can we put up Government's
2 Exhibit 11?

3 BY MS. SMITH:

4 Q And who is depicted in this photograph?

5 A Jerome Tun.

6 Q What was his role at 1MDB?

7 A He was part of the investment team. I don't remember his
8 specific title.

9 Q And you used a couple of terms earlier that I just want
10 to make sure we explain. So you used the term "CFO."

11 What does that stand for?

12 A Chief financial officer.

13 Q And then you also, at one point, referred to Jasmine Loo
14 as the GC.

15 What does that stand for?

16 A General counsel.

17 Q And I think you also used the term "CIO."

18 A Chief investment officer.

19 Q And those were all positions at 1MDB?

20 A That's correct.

21 Q You said earlier that Roger Ng and Tim Leissner were
22 responsible for the 1MDB relationship.

23 To your knowledge, did they also interact directly
24 with individuals at 1MDB?

25 A Yes.

Tai - Direc - Smith

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1 Q And were they interacting with the same people that you
2 were, or were they interacting with people who are more senior
3 than you?

4 A These are individuals and more senior as well.

5 Q And who else was, sort of, more senior at 1MDB?

6 A The one that comes to mind is the CEO, chief executive
7 officer.

8 Q Who is that?

9 A I don't -- I don't remember his name.

10 Q Okay. We will come back to that.

11 A Okay.

12 Q In addition to 1MDB, were there any other sovereign
13 wealth funds involved in the 1MDB transactions?

14 A Yes, IPIC was involved.

15 Q So what is IPIC?

16 A International Petroleum Investment Corporation.

17 Q Is that also sometimes pronounced IPIC?

18 A That's correct.

19 Q And what is the International Petroleum Investment
20 Company?

21 A My understanding was it was a sovereign wealth fund owned
22 by the Government of Abu Dhabi.

23 Q Where is Abu Dhabi located?

24 A In the Middle East.

25 Q Were there any entities related to IPIC involved in the

Ta. - Direc. - Smith

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1 transactions?

2 A They had a subsidiary called Aabar that was involved as
3 well.

4 Q What does it mean to be a subsidiary?

5 A It's a -- it's a company that is wholly-owned by another
6 parent.

7 Q Does that mean that company is controlled by the parent?

8 A That's correct.

9 Q And what was the name of the subsidiary of IPIC that was
10 involved in the transaction?

11 A Aabar.

12 Q You told us earlier about some of the people you worked
13 with at 1MDB on the transactions. Did you work with anybody
14 directly at IPIC on the transactions?

15 A No, never met anyone.

16 Q So before we talk about Projects Magnolia, Maximus, and
17 Catalyze in some more detail, I'm going to ask you about an
18 individual named Jho Low.

19 When did you first hear the name Jho Low?

20 A When I was in New York.

21 Q And how did you first learn the name Jho Low?

22 A His name was coming up in the papers as this guy, you
23 know, Malaysian, you know, spending money, going to parties in
24 New York, hanging out with celebrities.

25 Q And about what time period are you talking about when you

Tai - Direc - Smith

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1 were in New York?

2 A I think approximately around '09.

3 Q And what country did you understand Jho Low to be from?

4 A Malaysia.

5 Q At the time of the 1MDB bond transactions -- so Project

6 Magnolia, Project Maximus, Project Catalyze, did you

7 understand Jho Low to have any connection to 1MDB?

8 A At that point in time, no.

9 Q At any point when you were in the Singapore office, did
10 you ever discuss Jho Low with Roger Ng?

11 A No -- maybe I asked him who Jho Low was.

12 Q What, if anything, did Roger Ng say about Jho Low?

13 A He said Jho Low was from Penang.

14 Q Did Roger Ng tell you whether he knew Jho Low?

15 A I don't remember that.

16 Q And did Roger Ng tell you whether Jho Low had any
17 connection to 1MDB?

18 A No.

19 Q Did you ever discuss Jho Low with Tim Leissner?

20 A No.

21 Q Have you ever spoken to Jho Low?

22 A No.

23 Q Have you ever emailed with Jho Low?

24 A No.

25 Q Have you ever met Jho Low?

Denise Parisi, RPR, CRF
Official Court Reporter

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1 A No.

2 Q So I would like to get an understanding of the three
3 deals that we discussed, sort of, at a high level, so I'm
4 going to show you what's been marked for identification as
5 Government's Exhibit 53, which is behind tab 35, but should
6 also be up on your screen.

7 Do you recognize this document?

8 A Yes.

9 Q So what is this document?

10 A It's a high level summary of the three financing deals
11 that Goldman worked on with 1MDB.

12 Q And is it an accurate summary of information about these
13 three deals?

14 A Yes.

15 Q Will it assist you in helping to explain the details of
16 the deal to the jury?

17 A The key details, yeah -- the key items of the three
18 transactions.

19 MS. SMITH: Your Honor, at this time we are going to
20 offer Government's Exhibit 53 as a demonstrative. We may
21 later offer it in evidence.

22 THE COURT: Admitted as a demonstrative.

23 (Government's Exhibit 53 received as a
24 demonstrative.)

25 MS. SMITH: Can we please publish it to the jury?

1 BY MS. SMITH:

2 Q So let's just take a minute to walk through this chart,
3 which lists the three deals we mentioned earlier, which is
4 Project Magnolia, Project Maximus, and Project Catalyze.

5 At a very high level, what were these three
6 financing deals?

7 A They -- high level -- the three financing deals were to
8 provide capital to 1MDB for various investments and
9 acquisitions they had made.

10 Q And they're listed here as bond deals.

11 A That's correct.

12 Q Before we go further, what is a bond?

13 A A bond, it's a debt instrument whereby the borrower will
14 borrow X amount of money up front and have an obligation to
15 pay it back. For example, in this case, ten years later, in
16 the interim, they would have to make interest payments from
17 time to time as well as a, kind of, financial return to the
18 lender.

19 Q And you used the term "debt instrument."

20 What's an example of a debt instrument that someone
21 might use in their everyday life?

22 A A mortgage, a car loan.

23 Q So is a bond, then, just a way in which to borrow money?

24 A That's correct.

25 Q And what does it mean to issue a bond?

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1 A To issue a bond means you are the borrower; you are the
2 person actually borrowing and receiving the money.

3 Q So if 1MDB issues bonds, who has to pay those bonds back?

4 A 1MDB.

5 Q And are there any terms for how the bonds get paid back?

6 A Sorry, can you repeat that?

7 Q Are there any terms as to how the bond gets repaid?

8 A If I'm understanding your question, it's, you know, in
9 this case, ten years later, they would have to pay back the --
10 the amount borrowed.

11 Q And what happens if you don't pay back the amount
12 borrowed or the interest on time?

13 A Typically, the lenders will call it what we call a
14 default. If they have defaulted on the bond, then they have
15 the right to seize whatever collateral or any assets that were
16 owned by 1MDB.

17 Q So for each of these three deals, how much money was 1MDB
18 raising by issuing bonds?

19 A So Project Magnolia was 1.75 billion; Project Maximus
20 1.75 billion; and Project Catalyze was 3 billion, so in total,
21 it's 6.5 billion.

22 Q In terms of the size of the deals, how did these bond
23 transactions compare to other bond transactions that you
24 worked on in the Southeast Asia region?

25 A They were on the larger size.

Ta - Direc - Smith

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1 Q Let's just look at the closing date of each deal.

2 What was the closing date for Project Magnolia?

3 A May 18, 2012.

4 Q And what was the closing date for project Maximus?

5 A October 17, 2012.

6 Q And then what was the closing date for Project Catalyze?

7 A March 19, 2013.

8 Q So all three of these deals took place within a calendar
9 year?

10 A Yes.

11 Q Just going to the next column, what does additional
12 credit support mean?

13 A So additional credit support is, you know, additional
14 support by maybe a third party or, in this case, to -- to
15 ensure that there's future repayment of the interest and the
16 outstanding amount of the bonds.

17 Q What specifically -- the first two deals mention a
18 guarantee. What's a guarantee?

19 A A guarantee is a promise or obligation by the
20 guarantor -- the person providing the guarantee -- to make the
21 principle or interest payment if the borrower could not
22 actually pay it themselves.

23 Q And can you give us an example, sort of, again, in
24 everyday life where someone might have a guarantor or get a
25 guarantee?

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1 A Like a credit card or housing loan, you know, where if
2 you just started, you're out of school, and you want to get a
3 car, typically, you don't have enough income to support buy a
4 car, so you ask your parents for it to be a guarantor on the
5 lease itself or something like that.

6 Q And in this case, it says that there was additional
7 credit support starting with Project Magnolia given by what
8 you called IPIC.

9 What does that mean for that IPIC was the one
10 getting the guarantee?

11 A So it means that if 1MDB defaulted or couldn't pay the
12 interest or the outstanding amount under the bonds, IPIC would
13 step in to pay -- to repay on 1MDB's behalf.

14 Q Was that also true for Project Maximus?

15 A That's correct.

16 Q And then Project Catalyze, it says that the additional
17 credit support was a letter from the Government of Malaysia.

18 What did that mean?

19 A So the Government of Malaysia gave a letter of support to
20 just, kind of -- as additional credit support.

21 Q Why would 1MDB want to have additional credit support in
22 the form of a guarantee or the letter for these deals?

23 A It -- I think two folds. One is IPIC was a well known
24 borrower that was outstanding, so when you have better
25 guarantee, it makes issuing the bond or talking to lenders

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1 easier.

2 The second thing is IPIC -- it's because people know
3 who they are, it's also in terms of the cost, actual interest
4 payments potentially could be cheaper as well.

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6 (Continued on the following page.)

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1 BY MS. SMITH: (Continuing.)

2 Q And in general, why would an entity like IPIC agree to
3 have a guarantee -- to agree to give a guarantee on a deal?

4 A It would have some economic benefit to them.

5 Q And what kind of economic benefit might be received?

6 A They may receive a -- you know, a payment for the
7 guarantee. They may be also be working with 1MDB as a partner
8 for the investments.

9 Q And turning first to Project Magnolia, what was IPIC
10 supposed to get for giving a guarantee on Project Magnolia?

11 A They would be getting a set of warrants that would
12 entitle them to get equity stake in the selected investments
13 of 1MDB.

14 Q Can you just explain to us more what a warrant is?

15 A A warrant is like an option whereby there's a pre-agreed
16 price to buy the shares -- and, so -- at a later point in
17 time. So if, for example, the asset -- the underlying asset
18 has a higher value than the price that one could purchase, you
19 obviously exercise the warrants because you are making a
20 profit off of it. If the asset declines in value, the option
21 would be worthless. There's no stake in it so it becomes
22 meaningless.

23 Q So if the asset gets -- the value goes up, do you get a
24 benefit?

25 A Yes.

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1 Q And if the value goes down, do you lose anything?

2 A You don't lose anything because you did not elect to
3 exercise the option to buy an equity stake.

4 Q And is there a value to the warrants themselves?

5 A There is some value, option value.

6 Q Okay. And with respect to Project Magnolia, did one IPIC
7 go up in exchange for the guarantee change at all during the
8 deal process?

9 A To my knowledge, no.

10 Q Was there ever a -- a benefits IPIC that was sort of
11 contemplated other than the warrants while you guys were
12 working through the deal?

13 A I think in the beginning there was talk about a guarantee
14 fee, but it ultimately ended up in the options.

15 Q What does it mean to get a guaranteed fee?

16 A It would be a payment from 1MDB as a fee.

17 Q So at some point there was a discussion of the fee but at
18 the end of the deal instead IPIC got the options?

19 A That's correct.

20 Q I will circle back to that in a moment.

21 The next column says "Stated the Use of Proceeds."

22 What does use of proceeds mean for a deal?

23 A Use of proceeds means for the money that was being
24 borrowed, what the money would be used for.

25 Q And, so, if we can walk through it for each deal. So,

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1 what was the use of proceeds for Project Magnolia?

2 A The use of proceeds was to invest in energy projects that
3 1MDB was looking to acquire or develop. Particularly one of
4 the M&A transactions I worked on was purchasing the energy
5 assets of Genting.

6 Q That's listed as Project Turin?

7 A That's right.

8 Q Does that mean that Project Turin is one of the assets
9 that was purchased as part of the bond deal?

10 A That's correct.

11 Q Can we look at the same stated use of proceeds for
12 Project Maximus? So what were those stated proceeds?

13 A To invest in energy projects and also the purchase of the
14 power assets from Genting.

15 Q What was the project name for that specific asset
16 purchase?

17 A Project Greyhound.

18 Q And for Project Catalyze what was the money that was
19 being raised going to be used for?

20 A For Project Catalyze it was to create a joint venture
21 between 1MDB and Aabar to make an investment.

22 Q And what does it mean to have a joint venture?

23 A It's like a partnership but in this case they're all
24 equal shareholdings of a company that would make those
25 investments.

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1 THE COURT: It's 1 o'clock, Ms. Smith. We're going
2 to break for half an hour for lunch.

3 Please remember that you cannot discuss the case.
4 There is a cafeteria on the third floor -- I'm sorry, it's
5 closed today. I apologize. I'm sorry it's closed, which
6 means you may have to venture out in the cold. But I will see
7 you back here at 1:30.

8 THE COURTROOM DEPUTY: All rise.

9 (Jury exits.)

10 THE COURT: Please be seated everyone.

11 You may step out.

12 (Witness steps down.)

13 THE COURT: I will see the parties back here five
14 minutes early in case there's anything we need to discuss.

15 MR. AGNIFILO: Thank you, Your Honor.

16 MS. SMITH: Thank you, Your Honor.

17 (Luncheon recess taken.)

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1 A F T E R N O O N S E S S I O N

2 (Time noted: 1:44 p.m.)

3 (Jury enters.)

4 THE COURT: You may be seated when you come into the
5 courtroom. We stand to show respect for you.

6 Please be seated, everyone.

7 Ms. Smith, you may proceed

8 MS. SMITH: Thank you, Your Honor.

9 CONTINUED EXAMINATION

10 BY MS. SMITH:

11 Q Mr. Tai, I just wanted to circle back to one thing before
12 the Court break. You had said that Roger Ng told you he was
13 from Penang? What is Penang?

14 A Penang is a state in Malaysia on the north side of west
15 Malaysia.

16 Q And as one other follow up, we talked about how at some
17 point Roger Ng moved from the investment banking division to
18 the securities division. How does it work in terms of who you
19 report to? Do you report within your division in terms of to
20 people more senior than yourself?

21 A That's correct.

22 Q So if somebody is not in the investment banking division,
23 do they report up within the investment banking division or
24 within their own division?

25 A Within their own division.

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1 Q You said that you still continued to work with Roger Ng
2 when he moved over to securities?

3 A I think some of those commercial -- so, in some cases
4 Roger would have a better relationship because of legacy
5 reasons with their clients and he was previously in investment
6 banking as well so they do whatever makes the client feel
7 comfortable and while Roger was in the securities division, we
8 do a wall crossing where we would get him involved with all
9 the internal compliances in place to help him -- to get him to
10 work on investment banking transactions as well.

11 Q And you said that that was because the client felt more
12 comfortable, would that 1MDB?

13 A Yes.

14 Q Could you explain what wall crossing means?

15 A There's a bunch of internal procedures that we would have
16 to do where we log in records within the home system to give
17 non-investment banking personnel access to investment banking
18 deals because we are working on private information.

19 Q I am going to direct your attention back to Government
20 Exhibit 35 if we can put that back up.

21 THE COURT: What exhibits?

22 MS. SMITH: It's in as a demonstrative. Government
23 Exhibit 53. I said 35. I apologize.

24 (Exhibit published.)

25 BY MS. SMITH:

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1 Q When we broke for lunch we were just finishing up the
2 column "Stated Use of Proceeds." The next column says
3 "Goldman's Role." What does this column set forth?

4 A It highlights Goldman Sach's role, what we did on the
5 transaction.

6 Q So, can you tell us what Goldman did for Project
7 Magnolia?

8 A We arranged and underwrote the bond, so we structured the
9 deal and underwrote the bond and the documentation. We bought
10 the bonds first. So we used our balance sheet to find those
11 proceeds. Afterwards we would resell the bonds to financial
12 investors.

13 Q And then the third item here says you were an advisor on
14 Project Turin?

15 A That's correct.

16 Q What does that mean?

17 A Project Turin, if you remember, was the M&A transaction
18 where we advised 1MDB on the acquisition of the power assets
19 of the Tanjong PLC. And so we were advising them because it
20 was an M&A transaction so we were giving transaction advice.

21 Q What is an M&A transaction?

22 A M&A is mergers and acquisitions. So, in this case, they
23 were acquiring the assets so we were giving them advice to
24 acquire the power assets.

25 Q What role did Goldman play with Project Maximus?

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Tai - Direct - Smith

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1 A It's similar to Magnolia. So we arranged and underwrote
2 the bonds and structured the bonds and other documentation.
3 Similarly, we were the initial purchaser where we used the
4 balance sheet to buy the bonds and then resold it to financial
5 investors.

6 Q And then it also says advisor on Project Greyhound?

7 A Project Greyhound was the acquisition of the power assets
8 of Genting. So we advised 1MDB on that acquisition as well.

9 Q And then, finally, what was Goldman's role for Project
10 Catalyze?

11 A Catalyze which was \$3 billion bonds where we arranged --
12 we rearranged and structured those bonds. And, similarly, we
13 used our balance sheet to buy those bonds and resold them to
14 financial investors.

15 Q You used the term balance sheet a few times?

16 A Yes.

17 Q What do you mean when you say that Goldman used a balance
18 sheet?

19 A So, we bought it. We were the initial lenders and so we
20 used our own internal funds, i.e. the balance sheet, to give
21 1MDB the money first.

22 Q So Goldman used its own money to purchase --

23 A To buy, to lend the money up front, yes.

24 Q So Goldman was the initial lender of the money for the
25 three deals?

Tai - Direct - Smith

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1 A Right.

2 Q And you said that Goldman did something with the bonds
3 after that initial point?

4 A So, after that we would either sell the bonds, resell the
5 bonds to financial investors or in some cases we could
6 repackage it into a different type of securities and resell it
7 to other financial investors.

8 Q How long did it take to put a deal like the 1MDB bond
9 deals together?

10 A And when you mean from, you know, from beginning to when
11 we funded or we closed the transaction?

12 Q Yes.

13 A If I remember correctly around two to three months.

14 Q And what was just the process at a really high level of
15 putting together and finalizing a transaction like this?

16 A So, there would be the diligencing of the assets and the
17 business plan. There would also include structuring in terms
18 of other legal entities, and the flow of funds and last year I
19 would say it's generally making sure it was the right
20 documentation. Those, I think, would be some of the work
21 streams.

22 Q And, broadly speaking, what was your role on these three
23 transactions?

24 A It would be mainly under diligence in terms of the
25 business plan and the assets given that I -- the team or I

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1 worked on the Project Turin and bring on acquisitions. I knew
2 what the assets they were acquiring. I'm most familiar with
3 those operating kind of background as well. That was my main
4 role around the diligence.

5 Q Were you involved in putting together documents and
6 presentations?

7 A Yes.

8 Q And how did you go about doing that in the course of the
9 deal?

10 A Typically someone on the team there would be a bunch of
11 meetings. We need to prepare the documents or there would be
12 some member of the team that would do structuring and so there
13 were also lawyers involved so my role was to coordinate
14 between the various advisors.

15 Q Are transactions like the 1MDB bond transactions reviewed
16 internally at Goldman Sachs before they can move forward?

17 A Yes, they are.

18 Q Why are deals reviewed internally?

19 A You know, to make sure that we get all the necessary
20 diligence, the -- good documentation is correct; the
21 structuring -- to make sure there are no missing pieces before
22 a transaction can move forward.

23 Q And we discussed a minute ago that Goldman used its own
24 money to buy the bonds in the deals. Is there a term for the
25 transaction when Goldman uses its own money?

Tai - Direct - Smith

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1 A It's basically a principal trade. I think it's principal
2 in this case rather than an agent.

3 Q And are there extra steps they have to go through if it's
4 a principal transaction and Goldman is using its own money?

5 A It would be part of the committee internal review as
6 well.

7 Q What was the internal review process for these deals?

8 A We would have to do due diligence and then put together
9 committee memos. There was various committees, both within
10 the Asia -- as well as global or fund-wide committees that we
11 would need to get approval.

12 Q And what were the firm-wide committees that needed to
13 review the bond deals?

14 A So we would have firm-wide capital committee, firm-wide
15 suitability committee. I think those are the main ones.

16 Q What's the firm-wide capital committee?

17 A The firm-wide capital committee reviews any -- all or any
18 debt-related transactions that Goldman is working on, whether
19 we are agent or principal, and any approval for transaction to
20 proceed.

21 Q And what's the firm-wide suitability committee?

22 A The suitability committee is if a transaction is
23 particularly high profile, if there are, you know, certain
24 risks or things that or similar things that are sensitive
25 things that need to be debated at the firm level.

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1 Q And where is the firm-wide capital committee based?

2 A In New York.

3 Q What materials were presented to the committee?

4 A There would be a memo that includes the -- kind of
5 summarizes the transaction, the diligence that was done, the
6 kind of considerations, the underlying business profile, you
7 know, various information that would be -- kind of how we
8 price the bonds, the methodology to sell down the bonds. It's
9 a very thorough assessment about how a transaction would be
10 executed.

11 Q And how are those materials prepared?

12 A The deal team would typically prepare with input from all
13 members of the team and then, you know, we would circulate to
14 get final approval from the various senior members of the
15 review team and submit it to the committee.

16 Q And for these three bond deals, what was your role in
17 preparing the sort of materials for the committee?

18 A So, there was certain sections. Like, one was the
19 background of the transaction, you know, the financial profile
20 of the assets. Those sections would be the ones drafting it.
21 I would be coordinating with the other sections and I would be
22 working with the deal team to put it in the memo and submit it
23 for review and submit the memo.

24 Q And who sits on the committees, the capital committee and
25 the suitability committee?

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OCR

RPR

Tai - Direct - Smith

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1 A Senior members of Goldman Sachs. They are business --
2 members of the investment banking as well as -- as well as
3 what we call the control side the legal department, BIG, our
4 business intelligence group, compliance; so, other parts of
5 the internal organization.

6 Q And when a deal is presented to the committee, can the
7 committee members raise issues with the deal?

8 A So, when we submit the memo, then a -- there would be a
9 weekly schedule, slot, for the firm-wide capital committee.
10 So there is -- that slot is where the committee members would
11 then come together and kind of discuss any further
12 clarifications that's required with the deal team and so, that
13 yes, that would be the next steps after submission of the
14 memo.

15 Q And at the committee itself, who attends the committee
16 meetings?

17 A The deal team and the committee members.

18 Q And how are those committee meetings generally held?

19 A Usually it's a conference call.

20 Q And then who actually presents at the committee meetings?

21 A Whoever the partner or the senior member of the team is.

22 Q And if the committee raises an issue in the course of a
23 meeting, what's the next step?

24 A Ideally it's discussed on the spot during the call if
25 it's a basic clarification questions. If it's something that

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1 requires more further analysis, there would be a secretary of
2 the committee who would take notes and follow-ups and the deal
3 team is supposed to then do the follow-ups and then I just
4 submit an addendum, an additional document, for the follow-ups
5 or just go back to the committee members separately.

6 Q Is it important for the materials that are provided to
7 the committee to be accurate?

8 A Yes.

9 Q Is it important for them to be complete?

10 A Yes.

11 Q Why is that?

12 A So the committee members have a good understanding of the
13 transaction, are able to -- to understand and identify or talk
14 about any risk in the transaction and then ultimately be in a
15 position -- comfortable in a position to sign off.

16 Q And it is important for any responses to the committee to
17 be accurate and complete as well?

18 A That's correct.

19 Q And is that for the same reason?

20 A Yes.

21 Q For the 1MDB transactions, did you attend the committee
22 meetings?

23 A Yes, I did.

24 Q And were those held by conference call as well?

25 A Yes.

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1 Q And so did you dial in to the conference call?

2 A Yes.

3 Q Did you present at all at those meetings?

4 A No.

5 Q Were there issues that came up in the committee meetings
6 in connection with the 1MDB deals that then needed to be
7 addressed?

8 A I think, if I remember correctly, there would be -- I
9 think there are things that need to be followed up.

10 Q In particular, was the question of whether Jho Low was
11 involved in the deals raised by any of the committees
12 approving the 1MDB bond deals?

13 A I think there was -- yeah, it was asked before.

14 Q And what do you remember the question to be about Jho
15 Low's involvement?

16 A If I remember correctly, the question was is Jho Low
17 involved in the transaction.

18 Q And who responded to that question?

19 A Tim Leissner.

20 Q What did he say in response to that question?

21 A He said on the call with Tim: Jho Low is not involved.

22 Q Did anyone else respond to that question?

23 A Not that I can remember.

24 Q Was the committee approval process for the 1MDB
25 transactions any more or less thorough than for any other

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1 deal?

2 A No, just as thorough, the same.

3 Q And in addition to preparing materials for the committee
4 process, did you also work on materials for 1MDB and for IPIC?

5 A The presentation, yes.

6 Q Why did you prepare those materials?

7 A I was asked to do so.

8 Q And who to did you work with on the preparation of those
9 materials?

10 A Tim Leissner, Andrea Vella And other members of the deal
11 team.

12 Q And are those the same people you worked with on the
13 capital committee memo as well?

14 A Yes.

15 Q So I would like to talk a little about the first deal
16 which is Project Magnolia. I'm going to ask you to look at a
17 number of documents at once, so I will speak slowly for the
18 Court Reporter. But it's Government Exhibits 801, 803, 806,
19 809, 810, 811, 812, 813, 814, 815, 818, 823, 827, 828, and
20 1799.

21 And those are at tabs 3 to 16 of your binder as well
22 as tab 24.

23

24 A You said 3 to 16?

25 Q Yes, 3 to 16 and 24.

Tai - Direct - Smith

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1 A (Reviewing.)

2 Tab 24, okay.

3 Q Do you recognize these documents?

4 A Yes.

5 Q And what are these documents at a high level?

6 A The majority of them are committee memos that we would
7 submit to committee to get their approval.

8 Q And did you either compile the documents that I just
9 listed or send or receive them in the course of your work on
10 the three transactions?

11 A Yes.

12 MS. SMITH: Your Honor, the Government moves to
13 admit Government Exhibits 801, 803, 806, 809 to 815, 818, 823
14 827, 828, and 1799.

15 MR. AGNIFILO: We have no objection to the admission
16 of those exhibits, Judge.

17 THE COURT: They are all admitted.

18 (Government Exhibits 801, 803, 806, 809 to 815, 818,
19 823 827, 828, and 1799 received in evidence.)

20 BY MS. SMITH:

21 Q Let's start with Government Exhibit 801.

22 (Exhibit published.)

23 BY MS. SMITH:

24 Q That is tab 3 and should also be up on the screen.

25 So Mr. Tai, what is this document?

Tai - Direct - Smith

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1 A This would be a capital committee memo that we would have
2 drafted and submitted to the committee for the review for
3 Project Magnolia.

4 Q And, for the record, is it 20 pages?

5 A (Reviewing.)

6 It looks like more than 20.

7 Q Just go to the last page.

8 A It goes to 28.

9 Q It goes to 28? Okay. So, turning to the first page --

10 A Yes.

11 Q -- it says, today's date. What's the date as today's
12 date?

13 A That's correct, March 27th.

14 Q And it says, the committee date?

15 A Yes, March 29th.

16 Q And then what is the project name for this one?

17 A Project Magnolia.

18 Q And who is listed in this front page here?

19 A Tim Leissner, Andrea Vella and the rest of the deal team.

20 Q And you were listed under the investment banking section?

21 A That's correct.

22 Q And then who is listed in the securities division?

23 A So, Jon Donne, Toby Watson, Roger Ng, Dexter D'Souza and
24 Dominik Burckgard.

25 Q And then at the bottom here there's a sort of schedule.

Tai - Direct - Smith

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1 What is that?

2 A So, we would have different levels of committees for --
3 typically for a deal in Asia, we would go to the Asia
4 committee first. So Asia standards, Asia-Pacific suitability
5 Committee and Asia Pacific capital committee. For deals that
6 are larger or more sensitive than those deals where we
7 escalate what's called Asia Pacific to what we call firm-wide,
8 which is our global committee.

9 Q I'm going to ask you to take a look at Government Exhibit
10 803 which is behind tab 4.

11 (Exhibit published.)

12 BY MS. SMITH:

13 Q We'll zoom in on the top. What is this document?

14 A This was another kind of a capital committee memo for
15 Project Magnolia.

16 Q And what's the date on this memo?

17 A April 2nd -- sorry -- it should be April 2, 2012.

18 Q And is that a date after the date we saw in the first
19 version?

20 A Yes.

21 Q And why were there sort of a second version of the memo?

22 A I can't remember why we have two versions.

23 Q In general were there sometimes multiple versions made of
24 the capital committee memos?

25 A Yes.

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1 Q On the bottom of this one on the first one it mentioned
2 the schedule for the Asia-Pacific committee?

3 A Yes.

4 Q What sort of committees are listed on the schedule at the
5 bottom of this version?

6 A Asia standards committee, Asia-Pacific transfer
7 committee, firm-wide capital committee and firm-wide
8 suitability committee.

9 Q So, there are additional committees listed on this
10 version?

11 A That's correct.

12 Q And if we can go up to the middle of the page again. So,
13 once again, you were listed in the investment banking section;
14 is that right?

15 A That's right.

16 Q And then who is listed under, coverage?

17 A Roger Ng.

18 Q What does that mean, coverage?

19 A It means that he was covering the client.

20 Q And then this version of the memo, if you can look to the
21 last page, is 37 pages; is that right?

22 A That's correct.

23 (Continued on the following page.)
24
25

1 DIRECT EXAMINATION (Continued)

2 BY MS. SMITH:

3 Q And just before I go on, it says coverage and then it
4 says on the first page -- sorry?

5 Where it says coverage and we were looking at Roger
6 Ng's name, what does FICC mean?

7 A Fixed Income Currency and Commodities. It's the official
8 name for the securities division.

9 Q So as I said, this is 37 pages, and we'll just look at a
10 few of them just to get a sense of what's in the document. So
11 if we could look at Page two. And this is a sort of summary
12 fact sheet.

13 So what kind of information is contained here?

14 A It's an overview of the transaction, who the issuer,
15 borrower was, guarantors, the size, the use of proceeds, and
16 economics to Goldman Sachs.

17 Q And the issuer here is listed 1MDB Energy Limited.

18 What was that?

19 A That was a Corleon subsidiary that 1MDB created to be the
20 borrower.

21 Q And then if you look down there's a section that says key
22 committee discussion points and other transaction concerns.

23 What does this section contain?

24 A So these are the key considerations and issues that were
25 identified by either the deal team or, you know, various

Ta - Direc - Smith

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1 committee members that needed to be discussed.

2 Q And is there more information on those key committee
3 issues later in the document?

4 A Yes. There will be a section that kind of describes in
5 greater detail, what these points are and what the mitigants
6 are.

7 MS. SMITH: If we can turn to Page 12. And then
8 just zoom in on the top half.

9 Q So is this the section where those key issues are sort of
10 discussed in greater detail?

11 A That's correct.

12 Q And can you just remind us again, where did these come
13 from?

14 A Either from the deal team, other members of, you know,
15 committee members that kind of discuss, as well, and raise the
16 previously.

17 Q And then what was your role in sort of putting together
18 the information that was contained in this section?

19 A Some sections I would kind of draft the responses for
20 review. You know, some sections I would just coordinate with
21 the various members of the deal team to get their input.

22 Q And for this section in particular, which of those did
23 you do?

24 A I think if I remember correctly, probably, some of these
25 potential media and political scrutiny point, and the role of

Ta - Direc - Smith

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1 UT in the transaction.

2 Q And what was UT?

3 A UT is short form for Usaha Tegas which was the settler of
4 the Tanjong assets.

5 Q And there's a section here on Page 12 where it talks
6 about concerns, potential media and political scrutiny.

7 You said you worked on that section?

8 A Yeah, I probably would have drafted some of the
9 responses.

10 Q Okay. And there's a section there that says deals
11 property, Government cronies.

12 THE COURT: Ms. Smith, if you could slow down your
13 questioning, I think that would help considerably. Okay.

14 Q All right so there a section that says deals profiting
15 Government cronies and then there's some language here about
16 how 1MDB is a closely linked to the ruling political party and
17 the reports directly to the prime minister, the Malaysian
18 Federal Elections are expected to take place on or before
19 early 2013.

20 Do you remember questions or issues around this
21 particular section?

22 A I think if I remember correctly, like the issue came from
23 our BIG team, the questions of profiting Government cronies.
24 I don't remember who drafted that response though.

25 Q And what would BIG's role have been in sort of

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1 investigating or working on is this particular concern?

2 A They would be the ones identifying, you know, the
3 concern, because they deal with the background checks and they
4 then are supposed to raise it to the deal team and the
5 committee, and they will kind of review the responses.

6 Q And then if we can look at Page 28.

7 And is this a list of the board of advisers from
8 1MDB?

9 A Yes. Looks like it, yes.

10 Q And who's the first person listed as on the board of
11 advisers?

12 A The Honorable Dato' Sri Mohammad Najib.

13 Q And who was that?

14 A At that point in time, he was the prime minister of
15 Malaysia and finance minister.

16 Q What was your understanding, in addition to being on the
17 board of advisers, of his connection with 1MDB?

18 A He was also -- he was chairman of the board of advisers
19 and finance minister and 1MDB is a subsidiary of the minister
20 of finance.

21 Q And then the last page I'm going to ask you to take a
22 look at is Page 36.

23 So what does this appendix detail?

24 A This is a summary of what's called the contribution
25 agreement which is basically the options that Aabar or IPIC

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1 will receive as their financial, you know, return on
2 compensation for providing, you know, some of the credit
3 support.

4 Q So is this the details of the payment for the guarantee
5 for IPIC that we talked about earlier?

6 A That's correct.

7 Q I'm also going to show you what's been marked as
8 Government Exhibit 806 which is tab five and already in
9 evidence.

10 And so what is this document?

11 A This was addendum to Firmwide Suitability Committee and
12 Firmwide Capital Committee.

13 Q Is this also for Project Magnolia?

14 A Yes, it is.

15 THE COURT: Slow down your questioning, Ms. Smith.

16 MS. SMITH: Sorry.

17 Q What kind of information is contained in an addendum?

18 A So you have the summary transaction and then a list of, I
19 guess, follow-up questions or issues from suitability
20 committee and capital committee with the responses.

21 Q And do those issues and questions need to be finalized
22 before the deal can move forward?

23 A Yes.

24 Q Having looked at those three memos that we looked at, the
25 two capital committee memos and the addendum, what, if

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1 anything, do the memos and the addendum say about the
2 involvement of Jho Low in the deal?

3 A Nothing.

4 Q What, if anything, did the memos and addendum say about
5 payments to foreign officials in connection with the deal?

6 A There's nothing inside.

7 Q What, if anything, did do the memos and addendum say
8 about payments that anyone at Goldman would receive in
9 connection with the deal?

10 A There's nothing about that.

11 Q Now, I want to talk to you the guarantee, the IPIC
12 guarantee for Project Magnolia.

13 So as we discussed a minute ago, what did IPIC
14 ultimately receive in return for providing a guarantee?

15 A As far as I know, the contribution agreement.

16 Q And earlier today, we talked about that there was a
17 different form of payment that was considered at one point for
18 IPIC?

19 A Yes.

20 Q And what was that?

21 A A guarantee payment.

22 Q I'm going to show you a few e-mails connected to those
23 discussions. And those are what have been marked as
24 Government Exhibit's 1736 --

25 THE COURT: These are not yet in evidence.

*Avery Armstrong, RPR
Official Court Reporter*

Ta - Direc - Smith

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1 MS. SMITH: Not yet in evidence. For
2 identification.

3 Q -- 1736, 1737, 1746, 1754, 1766, and 1785, which are at
4 tabs 17 to 23 in your binder.

5 Do you recognize these documents?

6 A Yes.

7 Q And are these all e-mails that you've sent other received
8 in connection with Project Magnolia?

9 A Yes.

10 Q Okay.

11 MS. SMITH: Your Honor, I move to admit Government
12 Exhibit's 1736, 1737, 1746, 1754, and 1766, and 1785.

13 THE COURT: Are there any objections?

14 MR. AGNIFILO: No, your Honor, seeing that he's on
15 the e-mails, I have no objection.

16 THE COURT: They're all admitted.

17 (Government's Exhibits 1736, 1737, 1746, 1754, and
18 1766, and 1785 received in evidence.)

19 Q All right. So I'd like you to start with Government
20 Exhibit 1736 which is behind tab 17.

21 MS. SMITH: And Mr. Youkilis, if we could just start
22 with the top e-mail. Okay.

23 Q So what is the date of this e-mail?

24 A February 13, 2012.

25 Q And just to orient us a little bit, when does Project

Tai - Direc - Smith

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1 Magnolia close, in what month?

2 A May 18, 2012.

3 Q So this is dated February 13th, 2012?

4 A That's correct.

5 Q And the e-mail is from Jane Lah.

6 Who is Jane Lah?

7 A She was a member in our capital markets.

8 Q And the recipients of this e-mail include yourself, Roger
9 Ng, and Tim Leissner; is that right?

10 A That's correct.

11 Q And Jane Lah here says that she's copying Tim on the
12 latest version of the presentation?

13 A That's right.

14 Q And in the first bullet point there talks about the IPIC
15 guarantee for 10 years, including at 6.75 percent?

16 A Yes.

17 Q So what is she saying there about the IPIC guarantee at
18 this point in February?

19 A So for the 10-year bond that 1MDB was issuing, if there
20 was an IPIC guarantee, the interest on that bond will be
21 6.75 percent, plus you know, whatever guarantee fee 1MDB would
22 have to pay to IPIC.

23 Q And just to go back to the header a minute. Jane Lah,
24 there's a little sort of brackets next to her name and it says
25 IBD.

Ta, - Direc - Smith

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1 What does that stand for?

2 A Investment banking division.

3 Q So is that also next to your name and next to Tim
4 Leissner's name?

5 A That is correct.

6 Q And what is next to Roger Ng's name?

7 A Sec Division, security division.

8 Q So the e-mail addresses show which division you're in at
9 the time?

10 A That's right.

11 Q So I also just want to show you Page 3 of this e-mail.

12 And if you look at the bottom e-mail there from Jane
13 Lah on an earlier date it's February 12?

14 A Yes.

15 Q And so what is she saying, sort of, in this original,
16 sort, of bottom e-mail here?

17 A I guess she was referring to the -- there was some
18 attachment here that has the financing structure. Yeah.

19 Q And then if you look back through the rest of the e-mail
20 chain, we can go to Page 2 of the e-mail.

21 Is this a discussion about various updates to the
22 presentation?

23 A Yes. It looks like it.

24 Q And in the middle of the page there, there's an e-mail
25 from Roger Ng?

*Avery Armstrong, RPR
Official Court Reporter*

Ta - Direc - Smith

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1 A That's correct.

2 Q And he's saying that he provided some comments?

3 A Yes.

4 Q And then he's saying we should reach out to Jasmine at
5 1MDB?

6 A Yes.

7 Q And who is that again?

8 A Jasmine Loo is the general counsel at 1MDB.

9 Q And then we can take a look at the attachment that you
10 mentioned which is Page 5 of the document.

11 Is this the presentation that everybody's referring
12 to and making comments on?

13 A It looks like it. I think so.

14 Q And then if we turn to the second page.

15 A Yes.

16 Q And this says a summary overview proposed financing
17 structure?

18 A Yes.

19 Q So is this sort of an early discussion of what the deal
20 might look like?

21 A Yeah. At that point in time, probably, yes.

22 Q I'm going to show you what's been marked as Government
23 Exhibit 1737 which is at tab 18.

24 A Okay.

25 Q And what's the date on this e-mail?

*Avery Armstrong, RPR
Official Court Reporter*

Ta - Direc - Smith

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1 A February 21, 2012.

2 Q And there you say that you were attaching a draft of the
3 presentation for IPIC?

4 A Yes.

5 Q At the bottom, you say we need to show a copy to Tim and
6 Roger by late afternoon, if possible.

7 Why are you saying that you needed to show a copy to
8 Tim and Roger?

9 A I assumed they asked for it.

10 MR. AGNIFILO: I'm going to objecting unless he
11 remembers, Judge.

12 THE COURT: Objection overruled.

13 The witness will answer if he does remember.

14 A I don't remember specifically.

15 Q In general, were the presentations you were creating
16 circulated to members of the deal team?

17 A Yes.

18 Q And in general, were you considered a more junior member
19 of the deal team?

20 A Yes.

21 Q Were presentations then circulated to more senior members
22 of the deal team?

23 A Yes.

24 Q And were Roger and Tim more senior members of the deal
25 team?

Tab - Direct - Smith

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1 A Yes.

2 Q I'm going to show you what's been marked as Government
3 Exhibit 1746 which is tab 20.

4 What's the date on this e-mail?

5 A February 26, 2012.

6 Q And who is it an e-mail from?

7 A At the bottom? Jasmine Loo.

8 Q I'm sorry, the document tabs 20 which is Government
9 Exhibit 1746.

10 A Yeah, I see. Sorry. At the top right. Tim, Tim
11 Leissner.

12 Q That's okay. And who is he sending the e-mail to?

13 A Tim is sending it to me and Andrian Soew and the CCd
14 Roger.

15 Q And what does he say?

16 A Please include in the presentation.

17 Q And is that a forward or something that he received from
18 somebody else?

19 A Yes. Looks like it, from the bottom of the e-mail.

20 Q So if we can look down at the bottom.

21 And then who is he forwarding an e-mail from?

22 A Jasmine Loo.

23 Q And who did Jasmine Loo send that e-mail to?

24 A Tim Leissner.

25 Q If we can then look at the second page which is the

Ta - Direc - Smith

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1 attachment.

2 Do you recognize the handwriting in this document?

3 A No, I don't.

4 Q What do you understand this chart to represent?

5 A It looks like a chart for the structure of the bonds and
6 the financing.

7 Q And in terms of your role on the transaction, were you
8 involved in the structuring, at all?

9 A No.

10 Q So how did you get information about the structure of the
11 deal to put into the transaction documents?

12 A Someone on the deal team either give me information or,
13 you know, it would be created by someone on the deal team.

14 Q And if we look at the chart itself, there's a reference
15 to MOF.

16 What is that?

17 A Ministry of Finance of Malaysia.

18 Q And then right below that there's a reference to 1MDB.

19 A Gesture).

20 Q And then right below that is a reference to 1MDB Energy
21 Limited?

22 A Yes.

23 Q And we talked that earlier, but what is that entity?

24 A That was the subsidiary that 1MDB created to issue the
25 bonds.

1 Q And then on the right side of the chart, there's a
2 reference to the Abu Dhabi Government?

3 A Yes.

4 Q And then there's a line below that says 100 percent to
5 IPIC?

6 A Yes.

7 Q What does that represent?

8 A It represents that the Abu Dhabi government owns
9 100 percent of IPIC.

10 Q And then there's another line down to Aabar Investments
11 PJS?

12 A Yes.

13 Q What does that line represent?

14 A It means that Aabar is a subsidiary of IPIC.

15 Q And then there's another line with 100 percent down to
16 Aabar SPV?

17 A (Nonverbal gesture).

18 So Aabar owns the 100 percent of SPV.

19 Q And what's an SPV?

20 A SPV is special purpose vehicle. Typically, these are
21 shell companies created as part of some financial transaction.

22 Q And then if you look, there's a, sort of, dotted line
23 from 1MDB to Aabar Investments PJS.

24 A Yes.

25 Q And it says, in return, Aabar delivers on IPIC guarantee?

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1 A Yes. Yes.

2 Q And then below that it also -- there's another line from
3 1MDB Energy to Aabar SPV?

4 A Yes.

5 Q And it says there's a payment there?

6 A That's correct.

7 Q And then there's a line -- there's a third one above
8 between 1MDB and Aabar, also that says Aabar SPV to receive
9 call option?

10 A That's correct.

11 Q So at this point in the deal process, does this chart
12 reflect that there was a discussion of both options and a fee
13 in exchange for the guarantee?

14 A Yes, it does look like it.

15 Q And if we could go back to the first page of the e-mail.
16 And just show both at the same time.

17 So just to clarify, this was an e-mail that was sent
18 by Jasmine Loo to who?

19 A To Tim Leissner.

20 Q And to who else?

21 A I don't see anyone else.

22 Q On the bottom --

23 A At the bottom, yeah. Oh, I'm sorry, Roger and Tim --

24 Q That's okay. So it was sent from Jasmine Loo to Tim
25 Leisnner and Roger Ng?

Ta - Direc - Smith

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1 A Yes. Correct.

2 Q And then the top is Tim forwarding that to you?

3 A That's correct.

4 Q And then he asked you to put it in a presentation?

5 A Yes.

6 Q So if we could turn to Government Exhibit 1754 --

7 THE COURT: Before you do that, Ms. Smith, in view
8 of the fact that we leave at 3:30 today, we should take our
9 afternoon break, unless the jury doesn't need a break, and
10 then we can continue until 3:30.

11 I assume you would prefer a break.

12 Okay. Raise your hand if you would like a break.

13 Okay. Then we'll take a break for 15 minutes. I'll
14 see you back then.

15 (Jury exits the courtroom.)

16 (A recess was taken at 2:40 p.m.)

17 (Jury enters the courtroom.)

18 THE COURT: Please be seated, everyone.

19 You may proceed, Ms. Smith.

20 MS. SMITH: Thank you, Your Honor.

21 Mr. Youkilis, can you put back up Government
22 Exhibit 1746. And that's tab 20.

23 Q So before the break, we were talking about this e-mail
24 which attached the handwritten diagram which is on Page 2.

25 And now I'm going to show you what's been marked as Government

Tai - Direc - Smith

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1 Exhibit 1754 which is at tab 21.

2 And is this an e-mail from you?

3 A That's correct.

4 Q And what's the date of the e-mail?

5 A February 29, 2012.

6 Q And what are you doing in this e-mail?

7 A I sent the presentation to Jasmine Loo and CCd the rest
8 of the team.

9 Q And this is about a presentation for IPIC?

10 A That's correct.

11 Q And if we can look at Page 2.

12 Is this the cover page of the presentation?

13 A That's correct.

14 Q And now if we can skip to Page 13 which is slide 10 of
15 the presentation.

16 And you were the person sending this e-mail, right?

17 A Yes.

18 Q And so had you worked to put together this presentation?

19 A Yes.

20 Q So what's represented on this Page 13 which is slide 10?

21 A It looks -- I mean, it's the financing structure for the
22 Project Magnolia bonds.

23 Q And does this have the same entities and layout as that
24 handwritten document from the last e-mail that we looked at?

25 A Yes.

Tai - Direc - Smith

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1 Q And does it have the same, sort of, two-part compensation
2 that guarantees -- the options and the payment as that prior
3 chart?

4 A Yes.

5 Q And so does this represent you, sort of, taking
6 information and putting it into the presentation?

7 A That's correct.

8 Q Do you remember any discussions with Mr. Ng or
9 Mr. Leissner about this structure?

10 A I don't remember.

11 Q And were you involved in putting that structure together?

12 A Just, like, word processing, but not, you know, coming up
13 with the structure.

14 Q Just word processing? Is that what you said?

15 A Yes. Word processing.

16 Q So just taking it and putting in the document, but not
17 actually being involved in the structure itself?

18 A That's correct. Yes.

19 MS. SMITH: You can take that down, Mr. Youkilis.

20 Q So during the time period that you're working on the deal
21 and we just saw a number of e-mails about it, how often were
22 you communicating with Mr. Ng or Mr. Leissner, about these
23 deals?

24 A I mean, fairly often, I guess.

25 Q So if we say by e-mail, by phone or in-person, would it

Tai - Direc - Smith

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1 on a daily basis?

2 A I would think almost daily basis yes.

3 Q And did you travel with Mr. Ng during this time period
4 for meetings about the deals?

5 A Yes.

6 Q Did you also travel with Mr. Leissner?

7 A Yes.

8 Q How often would you say that you were traveling and
9 attending meetings?

10 A I mean, not daily. But I can't recall. Maybe monthly or
11 maybe once every two weeks. I can't remember now how often.

12 Q But you said maybe once every two weeks traveling with
13 them?

14 A Yes.

15 Q Did the committees that we talked about earlier
16 ultimately sign off on Project Magnolia?

17 A Yes.

18 Q And was that sign-off necessary for Project Magnolia to
19 actually close?

20 A Yes.

21 Q I'm going to show you what's been marked as Government
22 Exhibit 809 which is already in evidence and that's at tab 6.

23 So who is this an e-mail from?

24 A Cherie Er.

25 Q Who is Cherie Er?

Ta. - Direc. - Smith

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1 A She was an associate in our debt capital markets.

2 Q And what's the date on this e-mail?

3 A May 18, 2012.

4 Q And in the two -- actually in the CC line, there's a,
5 sort of, two e-mail addresses that look like lists. One's a
6 Project Magnolia, and one's GS.Project Magnolia FICC.

7 What are those two lists?

8 A Those are what we call group distribution lists, where
9 when you kind of add it to a e-mail address, it sends the
10 e-mail to a bunch of people within the team.

11 Q And was it common to have those sort of lists for
12 projects?

13 A Yes.

14 Q And would you have been apart of one of those lists
15 because you were on the deal team?

16 A I would think Project Magnolia.

17 Q And so Cherie Er says, dear committee secretaries, we
18 have now completed all committee follow-up items. Please see
19 below. And then there's, sort of, a whole list of various
20 items.

21 A Yes.

22 Q One from the suitability committee, one set, and one set
23 from the capital committee?

24 A Yes.

25 Q What do those items represent?

Ta, - Direc - Smith

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1 A So those were for each committee, what the follow ups was
2 and on the right side, the status and response.

3 Q And if we can go back to Government Exhibit 53.

4 So this is our overview chart of the bond deals?

5 A (Nonverbal gesture).

6 Q After Project Magnolia closed, what was the next 1MDB
7 transaction that you worked on?

8 A For financing for the Project Maximus.

9 Q And so just to remind the jury, what was, sort of, the
10 key terms of Project Maximus?

11 A Project Maximus was the \$1.75 billion bond issuance by
12 1MDB.

13 Q And who else worked on that deal from Goldman?

14 A Almost the same deal team as Magnolia.

15 Q And then the assets sale that was connected to Project
16 Maximus was Project Greyhound?

17 A That's correct.

18 Q And who was your role in working on, sort of, Maximus and
19 Greyhound in terms of where you were on the deal team?

20 Was it similar to Project Magnolia?

21 A Yes. Fairly similar. So you know, more of the diligence
22 and most of the work that was done on project Greyhound in
23 terms of the acquisition advisory, and then some of the
24 information we then used for Project Maximus.

25 Q I'm going to show you what have been marked, a number of

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1 Government Exhibits related to Project Maximus.

2 THE COURT: For identification?

3 MS. SMITH: For identification.

4 Q So those are 1867, 1878, and then 1885 to 1889. And
5 Mr. Tai, those are tabs 25 to 30 of your binder.

6 A Okay.

7 MS. SMITH: Your Honor, the Government is going to
8 offer Government Exhibits 1867, 1878, 1885, 1886, 1887, and
9 1889 into evidence.

10 THE COURT: Are these more e-mails?

11 MR. AGNIFILO: We have no objection, your Honor.
12 No objection.

13 THE COURT: Okay. Are these additional e-mails,
14 counsel?

15 MS. SMITH: Yes, Your Honor. These are additional
16 e-mails related to Project Maximus.

17 THE COURT: Okay. They're all admitted.

18 (Government's Exhibits 1867, 1878, 1885, 1886, 1887,
19 and 1889 received in evidence.)

20 Q And so Mr. Tai, we're going to start with the Government
21 Exhibit 1867 which is at tab 25.

22 Before we look at the document, you talked earlier
23 about something called the Business Intelligence Group?

24 A Yes.

25 Q Can you just remind us what the Business Intelligence

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1 Group is?

2 A They're a group to do background checks on clients and
3 identify any issues, you know, particular around media and
4 things in the public domain.

5 Q And would BIG have been involved in reviewing the three
6 1MDB deals that we've talked about?

7 A Yes.

8 Q So turning to Government Exhibit 1867, just starting with
9 the top e-mail.

10 Is this an e-mail from you?

11 A Yes.

12 Q And then what's the date?

13 A June 21, 2012.

14 Q And then again, just for sort of, putting us on the
15 timeframe, did Project Maximus close in October of 2012?

16 A That's correct.

17 Q So is this towards the beginning of the process of
18 working towards Project Maximus?

19 A Yes.

20 Q It's a long e-mail chain, but I'm going to start at the
21 bottom or the earliest e-mail which is on Page 5.

22 (Continued on the following page.)
23
24
25

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1 DIRECT EXAMINATION

2 BY MS. SMITH: (Continued.)

3 A Yes.

4 Q So this bottom e-mail, who is it from?

5 A Wong. Hong Hui Wong.

6 Q And who is Hong Hui Wong?

7 A He is a member of our BIG team.

8 Q And who is it to?

9 A Tim Leissner.

10 Q And then there is a CC to Gilbert Chan. Who is that?

11 A Gilbert is the -- our -- one of the legal department
12 personnel.

13 Q And the subject line is Genting?

14 A Yes.

15 Q Now, what was Genting?

16 A So Genting is a large conglomerate in Malaysia.

17 Q And was Genting involved in Project Greyhound, which was
18 the asset sale?

19 A Yes, they were, the sale of assets to 1MDB.

20 Q So that bottom e-mail, then Tim Leissner responds right
21 above that. Do you see that?

22 A Yes.

23 Q And he says, adding, "Andy and Cyrus will fill in the
24 details"?

25 A Yes.

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1 Q Are you copied into that e-mail?

2 A Yes, I am.

3 Q And who is Cyrus?

4 A Cyrus was a vice president in the capital markets team.

5 Q So what is Tim Leissner basically saying to Hong Hui Wong
6 in response here?

7 A So he's saying -- so, you know, Hong Hui Wong asked him
8 for the details so they could run the background check. And
9 Tim then replied that Cyrus and myself will give them some of
10 the basic transaction details for them to start running their
11 background check.

12 Q If we can turn to page 4 of the document and in the
13 bottom.

14 So is this then Hong Hui Wong's response to Tim
15 Leissner?

16 A Yes.

17 Q And he says, "Can you please provide us with the
18 following information to commence the BIG check"?

19 A Yes.

20 Q What is your understanding of what he means to commence
21 the BIG check?

22 A To -- for BIG to start their background checks.

23 Q And then there's a bunch of questions here. Are those
24 questions from Hong Hui Wong?

25 A Yes.

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1 Q If you look sort of two e-mails up, you respond, "We'll
2 send over shortly" and then there's a top e-mail from someone
3 named Adrian?

4 A Yes.

5 Q Who is Adrian?

6 A Adrian was the associate within my -- on the investment
7 banking team.

8 Q And what does he say to Hong Hui in that e-mail?

9 A I think he was answering some of the questions that Hong
10 Hui had before.

11 Q And it's a little hard because it's all the same color --

12 A Yes.

13 Q -- but if you look below in the e-mail for Hong Hui, are
14 those answers to those questions?

15 A Yes.

16 Q And Adrian says, "Please find our responses below"?

17 A Yeah, that's right.

18 Q Sorry, can you hold on one minute.

19 A So Adrian is giving the responses to Hong Hui's question
20 below.

21 Q Okay.

22 A Yeah.

23 Q So, sorry, I don't think we had it right up on the
24 screen?

25 MS. SMITH: So, Daniel, if you could just scroll to

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1 the top of that page.

2 Q This is page 4. And this is where I was saying Adrian
3 was responding to Hong Hui, "Please see our responses below."

4 MS. SMITH: And then, Daniel, if you can scroll down
5 to the bottom of that.

6 Q And then, as I was saying, are these where you can see
7 Adrian's e-mails in -- Adrian's responses in -- among the
8 questions that Hong Hui asked?

9 Is that correct?

10 A That's correct.

11 Q So, for example, it says, "Full name of the Genting power
12 generations assets." And then below that there's an answer of
13 what the names are; is that right?

14 A Yeah. So the second and third bullets are the answers
15 and the first one is the questions.

16 Q The first one is the question?

17 A Yes.

18 MS. SMITH: So if we can go back to the top of
19 page 5, which is a continuation of that e-mail, and just zoom
20 in on that top piece.

21 Q And are these some more questions that were then answered
22 by Adrian?

23 A That's correct.

24 Q So it says, "Genting's role in the transaction." And the
25 answer is -- "i.e., vendor only?" And then the answer is yes?

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1 A Yes, that's correct.

2 Q And the second one there says, "Any use of intermediary
3 or finder in sourcing this transaction?"

4 And what was the answer that was given?

5 A "No."

6 Q What's an intermediary or a finder?

7 A So the finder -- the intermediary or finder is, you know,
8 someone who was working on the transaction and they will be
9 paid by Goldman to source the -- you know, make introductions
10 for us to work on the transaction.

11 Q And BIG was asking here whether or not there was an
12 intermediary or a finder?

13 A That's correct.

14 Q Do you know why BIG was asking that question?

15 A They typically ask so that, you know, if there's any more
16 for -- to make sure the background is comprehensive.

17 Q And would that information need to be disclosed?

18 A Yes.

19 Q If we can turn to page 2 of the e-mail in the middle, and
20 it's the Hong Hui Wong e-mail at 5:56 p.m.

21 So is this a continuation of the e-mail chain we
22 were just looking at?

23 A Yes.

24 Q And he says, "Following the 1MDB call organized by
25 conflicts with senior bankers, can you please provide us with

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1 the following information for BIG check."

2 And are there three questions below that?

3 A Yes.

4 Q And can you read the third question, the one that says
5 "Is Jho Low"?

6 A "Is Jho Low involved in this transaction? Please keep us
7 posted if there are any other politically exposed person
8 involved in this transaction in a nonofficial capacity."

9 Q Do you know what the term "politically exposed person"
10 means?

11 A It's a broad term we use for basically politicians or
12 anyone in government.

13 Q And why does BIG ask about politically exposed persons?

14 A So they can run a background check and, you know, make
15 sure we don't have any exposure to, you know, foreign -- FCPA
16 and antibribery risk.

17 Q When you say FCPA, what do you mean?

18 A The Foreign Corrupt Practices Act.

19 Q And then can we turn to the first page then?

20 A Yes.

21 Q And you write, respond to the group, and at the top here
22 you say "For 1." Is that providing the answer to the first
23 question that Hong Hui asked?

24 A That's correct.

25 Q And what is the information you're providing here?

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1 A The background of the buyers of the 1MDB management.

2 MS. SMITH: And if we can scroll down a little bit
3 to the -- so we can focus on the Jasmine and Vincent sections.

4 Q There is a section here on Jasmine Loo and a section on
5 Vincent Koh. Are those two of the people that we talked about
6 before that you worked with at 1MDB?

7 A That's correct.

8 MS. SMITH: And then, Mr. Youkilis, if we can turn
9 to the second page at the top.

10 Q And you say "For 2, IPIC is involved." Is this the
11 answer to the second question?

12 A Yes.

13 Q And there are three names under that answer. What are
14 those three names?

15 A I think it's the senior management of IPIC.

16 Q And so the first name there is listed as Sheikh Mansour
17 bin Zayed Al Nahayen?

18 A Yes.

19 Q That's the chairman of IPIC?

20 A Yes.

21 Q And then what's the second name?

22 A Khadem Al-Qubaisi, CEO of IPIC.

23 Q And what does CEO mean again?

24 A Chief executive officer.

25 Q And then what's the third name?

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1 A Mohamed Badawy Al Husseiny, CEO of Aabar.

2 Q And Aabar was the subsidiary of IPIC?

3 A That's correct.

4 Q Earlier I had asked you whether you worked directly with
5 anybody at IPIC or Aabar. Did you meet any of these three
6 individuals at IPIC?

7 A Not the first two.

8 On the third one, there was a trip to Abu Dhabi. I
9 met him, like shook hands and that's it.

10 Q And who accompanied you on that trip?

11 A Tim Leissner was there, Roger Ng, Andrea Vella and, you
12 know, some members of the deal team.

13 Q And what was the purpose of the trip?

14 A If I remember correctly, it was to kind of discuss with
15 IPIC the transactions.

16 Q And then the right below that it says, "For 3, no." And
17 which question below is that an answer to?

18 A That one that Jho Low is involved.

19 Q And so the information here says that no, that Jho Low is
20 not involved in the deal?

21 A That's correct.

22 Q Where did you get the information to answer that
23 question?

24 A I don't remember that.

25 Q Would you have discussed it with other members of the

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1 deal team?

2 A Not sure. I don't think so, but I don't remember.

3 Q Was this based then on your own experience of the deal?

4 A That's correct.

5 Q So the next document I'd like to show you is Government
6 Exhibit 813, which is Tab 10, already in evidence.

7 And so what is this document?

8 A This was the firm wide committee memo and firm wide
9 suitability committee memo.

10 Q And is this for Project Maximus?

11 A Yes, it is.

12 Q And so did this go through -- Project Maximus going
13 through the same committee process as Project Magnolia?

14 A That's correct.

15 Q And so which section are you listed under for this deal?

16 A Investment banking.

17 Q And is Tim Leissner listed there as well?

18 A Yes.

19 Q And there's something that says IBS next to him. What
20 does that stand for?

21 A It stands for investment banking services. It just means
22 he's the coverage guy.

23 Q And then Roger Ng is listed under the coverage section
24 again?

25 A Yes.

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1 Q And does this memo contain sort of the same types of
2 information as the memo we saw last time?

3 A Similar, yes.

4 Q So if we can look to page 2 of this document, is this the
5 same sort of summary fact sheet that we saw before?

6 A That's correct.

7 Q And then if we can turn to page 8 of the document, and in
8 the middle there it says the status of the BIG review.

9 Is there a section here as well, as there was last
10 time, that says there was a concern with deals profiting
11 government cronies?

12 A Yes. It's one of the bullet points.

13 Q And does this reflect some of the other concerns that
14 they've raised in connection with this deal?

15 A Yes.

16 Q And so if you look at this document and then also
17 Government Exhibit 814, which is behind Tab 11 and is also in
18 evidence.

19 And is that, as last time, an addendum to the
20 original memo with more information about the deal?

21 A That's correct.

22 Q So if you look at both of those, what, if anything, did
23 the memos for Maximus say about the involvement of Jho Low in
24 this deal?

25 A There's nothing.

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1 Q And what, if anything, do the memos for Maximus say about
2 payments to foreign officials in connection with this deal?

3 A Nothing.

4 Q What, if anything, did the memos from Maximus say about
5 payments that anyone at Goldman would receive in connection
6 with the deal?

7 A Nothing.

8 Q I'm going to show you what has been marked as Government
9 Exhibit 1878 in evidence, which is Tab 26.

10 And so I just want to focus on the top two e-mails
11 here. I'm sorry, the -- let's see. The top four, sorry, the
12 second part of questions.

13 MS. SMITH: That's good, actually, Mr. Youkilis.

14 Q Mr. Tai, just looking at the bottom e-mail, where it says
15 August 21st.

16 A Yes.

17 Q From Khoo Lay Khoon to you and a bunch of other
18 individuals.

19 A Yes.

20 Q Including Roger Ng.

21 A Yes.

22 Q And the subject line says Project Greyhound.

23 A Yes.

24 Q What is he sort of -- what kinds of questions is he
25 asking you in this e-mail?

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1 A He's asking about kind of the operating information for
2 you know, the greyhound assets.

3 Q And who is Khoo Lay Khoon?

4 A If I remember correctly, it's one of the RHB Bank, which
5 is a local Malaysian bank, one of the person there.

6 Q Why is he asking these questions on Project Greyhound?

7 A At that point in time, as part of the acquisition, 1MDB
8 was concerting to get local financing as well, so, you know,
9 take a bank loan from RHB to fund the purchase of the
10 greyhound assets.

11 Q And then if you can look up, there's an e-mail from
12 Jasmine Loo right above that. And it's sent to Jasmine Loo,
13 to you, to Tim Leissner and an e-mail address that says
14 queensgate.capital@gmail.com?

15 A Yes.

16 Q Are you familiar with that e-mail?

17 A No.

18 Q Do you know whose e-mail that is?

19 A No.

20 Q If you can go to the next e-mail up.

21 And this is an e-mail from you just responding to
22 Jasmine?

23 A Yes.

24 Q You said, "We're working on the answers to Greyhound.
25 And then on the group level questions, we probably need to

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1 discuss the business plan."

2 So what are you conveying to Jasmine here?

3 A That we were working to answer some of the questions that
4 RHB asked. And, you know, for 1MDB group, that all questions,
5 we should discuss the business with RHB, but don't send any
6 numbers for now.

7 Q And you were responding to Jasmine's e-mail. And did you
8 copy all the people that were copied on Jasmine's e-mail?

9 A Yes, I think I hit reply all.

10 Q Okay. And then can we look at the top e-mail in this
11 chain.

12 And it's an e-mail from Jasmine Loo to you and to
13 Tim Leissner, correct?

14 A That's correct.

15 Q Is that Queensgate Capital e-mail on that chain?

16 A No.

17 Q And what does Jasmine Loo say in her top e-mail here?

18 A She said she copied the wrong person on the e-mail, so
19 please reply in a new e-mail without that e-mail.

20 Q And is the reference to the wrong individual a reference
21 to that Queensgate Capital e-mail?

22 A I think so.

23 Q Did Project Maximus ultimately close as well?

24 A Yes, it did.

25 Q So I'm going to turn your attention to Government

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1 Exhibit 818, which is already in evidence, and it's Tab 13 of
2 your binder.

3 Is this an e-mail that discusses preparations for
4 the closing of Project Maximus?

5 A That's correct, yes.

6 Q And there are a couple of e-mails from Dan Swift here,
7 but I want to focus on the one at 5:44 p.m., which is at the
8 top, second from the top.

9 A Yes.

10 Q And can you just read that e-mail?

11 A "Mark, David, Matthew, Dan, we got word this afternoon
12 from IPIC that they are prepared to sign the guarantee
13 document and we expect that both IPIC and 1MDB will push to
14 get all the documents countersigned ASAP. We will talk to
15 Eugene and New York committee members later this evening
16 to" --

17 THE COURT: Slow down, Mr. Tai.

18 THE WITNESS: Sorry.

19 A "We will talk with Eugene and New York committee members
20 later this evening to resolve the internal approvals.

21 "Are you all comfortable from a business
22 leadership/E0 perspective to proceed?

23 "Happy to speak live or organize a call if need be.

24 "Thanks, Dan."

25 Q What does it mean "from an E0 perspective"?

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1 A Executive office.

2 Q And there's a reference to a Eugene.

3 A Yes.

4 Q Who is that a reference to?

5 A Eugene was our chief underwriting -- if I remember
6 correctly, underwriting officer at that time.

7 Q And it says, "We'll talk to Eugene and the New York
8 committee members." What is that generally a reference to?

9 A The firm wide committee.

10 Q And is this a discussion of the internal approvals from
11 the committee that are needed to finalize Project Maximus?

12 A That's correct.

13 Q So we're going to move on to the third deal, which is
14 Catalyze, and go back to Government Exhibit 53, which is the
15 demonstrative.

16 So Catalyze, if you can just sort of tell us again,
17 what was the amount and sort of purpose of the third deal in
18 the series?

19 A Project Catalyze was the issuance of a \$3 billion bond.
20 It was supposed to be injected in a joint venture between 1MDB
21 and Aabar.

22 Q And what was the purpose of the joint venture?

23 A To make investments, you know, on behalf of the JV to
24 generate economic returns.

25 Q And so let's look at the capital committee memo for the

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1 final deal, which is Government Exhibit, already in evidence,
2 823 at Tab 14.

3 And so is this the capital committee memo for
4 Project Catalyze?

5 A Yes.

6 Q And who is on the deal from the investment banking
7 division here?

8 A Tim Leissner, Dan Swift, myself, Adrian Seow and Alvin
9 Adisusanto.

10 Q And are the members of the individuals who worked on the
11 team from the various divisions on this memo?

12 A Yes.

13 Q And is Roger Ng listed on the memo as someone who worked
14 on Project Catalyze?

15 A No, he's not on there.

16 Q And do you remember whether you worked with Roger Ng on
17 Project Catalyze?

18 A I don't remember. I mean, I -- I don't remember the
19 specifics.

20 Q But he's not listed on this document?

21 A But he's not listed, yeah.

22 Q If we can turn to page 2 of the memo.

23 And is this the same sort of fact summary that we
24 saw for the other two deals as well?

25 A That's correct.

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1 Q And does it also include, on page 3 of the document, the
2 section on sort of the key committee discussion points and
3 other concerns?

4 A Yes.

5 Q And here, one of the concerns that's listed is timing of
6 the transaction relative to the Malaysia general elections?

7 A That's correct.

8 Q What was your understanding of what that concern was
9 referring to?

10 A So my understanding was, when we were thinking about
11 executing Project Catalyze, it was very close to the actual
12 Malaysia general elections to elect, you know, the government
13 and prime minister, so needed to -- you know, given that the
14 prime minister was involved in -- current prime minister was
15 involved in 1MDB, needed to have a discussion if, you know,
16 there is any risk from the elections, you know, in terms of
17 forming the government or maintaining the existing government
18 that will negatively impact 1MDB.

19 Q And when you say "negatively impact 1MDB," what do you
20 mean?

21 A You know, it could be if -- you know, if the prime
22 minister and the ruling government gets voted out, for
23 example, what happens to 1MDB.

24 Q And you made a reference to the prime minister.

25 A Yes.

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1 Q Is that the prime minister of Malaysia?

2 A That's correct.

3 Q And was that Najib Razak, the individual we looked at the
4 bio for earlier?

5 A That's correct.

6 Q I'm going to show you what has been marked as Government
7 Exhibit 827, already in evidence, which is the next tab, 15.

8 And as we saw with Project Magnolia and Project
9 Maximus, is this an e-mail detailing sort of committee signoff
10 for Project Catalyze?

11 A That's correct.

12 Q And it's being sent by Dan Swift.

13 Who is Dan Swift?

14 A Dan Swift was a managing director on the investment
15 banking team.

16 Q And then finally, if we can look at Tab 16, which is
17 Government Exhibit 828.

18 A Yes.

19 Q And what's the date on this e-mail?

20 A March 19, 2013.

21 Q And is this the date of the Catalyze closing?

22 A Yes.

23 Q And are you someone who received this e-mail?

24 A Yes.

25 Q The e-mail says, "Bond issuance completed and now all

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1 funds transferred to issuer. SWIFT messages for both bonds,
2 USD 2.75 billion and USD 250 million pieces for client's
3 reference below," and then there's sort of a whole list of
4 details below that?

5 A Yes.

6 Q So what is a SWIFT message?

7 A A SWIFT is -- it's like wiring instructions to kind of
8 show the transfer of funds.

9 Q And so what is this e-mail with the wiring instruction
10 reflecting?

11 A It shows that the funds is being sent to, you know,
12 wherever 1MDB wanted the funds to be sent to.

13 MS. SMITH: Your Honor, this is a good stopping
14 point if that works.

15 THE COURT: Ladies and gentlemen, it is 3:30 and so
16 we are going to end for today. Please remember you cannot
17 discuss the case with anyone, you cannot read or let anyone
18 speak to you about the case. Have a good night, and we will
19 see you tomorrow morning at 9:30.

20 THE CLERK: All rise.

21 (Jury exits.)

22 THE COURT: Please be seated, everyone.

23 So I --

24 MS. AMBUEHL: Mr. Tai.

25 THE COURT: You may step out. I'm sorry.

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1 (Witness exits.)

2 I saw the parties' filings from this weekend, which
3 I reviewed. I assume the government has now reviewed all
4 reports related to this matter so that there are no further
5 surprises.

6 MR. ROLLE: Yes, Judge, we looked through the FBI's
7 reports and found no others.

8 THE COURT: Okay. And are you confident that you
9 have now looked at all of the reports that were prepared and
10 related in any way to this transaction to 1MDB?

11 MR. ROLLE: Yes, Judge, I think we've gone through
12 the FBI's Sentinel file and reviewed the reports filed in this
13 case.

14 THE COURT: Okay. Anything else, Mr. Agnifilo?

15 MR. AGNIFILO: Your Honor, one logistical matter.

16 THE COURT: Pull the mike towards you.

17 MR. AGNIFILO: I'm sorry, Judge.

18 THE COURT: It's okay.

19 MR. AGNIFILO: So currently -- it's about our
20 client's time. We would like him to go stay in our office
21 later in the evening.

22 THE COURT: Okay.

23 MR. AGNIFILO: He has to be home at 10:00? 10:00?

24 THE COURT: I thought we changed that.

25 MR. AGNIFILO: So we moved it to 10:00. And we

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1 thought 10:00 would be fine, but now that we're on trial,
2 maybe we could do 11:30? I mean, he's going to be with us.
3 That's the truth.

4 THE COURT: Why don't we make it midnight.

5 MR. AGNIFILO: Fine. That's good, Judge.

6 MR. INTRATER: Thanks, Judge.

7 THE COURT: Sure.

8 Is there a reason at this point for us to maintain
9 the curfew? I mean, I do not know that there is,
10 Mr. Agnifilo, so I am happy to extend it to midnight.

11 MR. AGNIFILO: That's fine.

12 THE COURT: But if there is any reason or any
13 evening -- I know I work better late at night -- that your
14 client needs to stay late, I am giving you permission for that
15 to happen.

16 MR. AGNIFILO: Very good.

17 THE COURT: So we can just discuss it after the
18 fact.

19 MR. AGNIFILO: Very good, Judge.

20 THE COURT: Okay?

21 MR. AGNIFILO: One second.

22 THE COURT: Sure.

23 MR. AGNIFILO: Because we've been talking to
24 Pretrial and Pretrial seems to have no issue with it. So all
25 that Pretrial needed to know is if we get permission from the

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1 Court to have our client stay with us until past the curfew,
2 that that's fine with Pretrial.

3 THE COURT: So you have standing permission from the
4 Court to do that.

5 MR. AGNIFILO: Very good. Okay. Perfect. Thank
6 you, Judge.

7 THE COURT: And that way, you should not have any
8 issues with them.

9 MR. AGNIFILO: Very good. Thank you. I appreciate
10 it very much.

11 THE COURT: Sure.

12 Is there anything else we need to discuss?

13 MR. AGNIFILO: Nothing from us.

14 THE COURT: Have a good night, everyone.

15 MR. AGNIFILO: Thank you, Your Honor.

16 THE COURT: I will see you -- make it five minutes
17 early just in case there is anything. Obviously if there is
18 nothing, the parties can communicate that to Ms. Valentin and
19 I won't come in at 9:25, I will just see everyone at 9:30.

20 MR. AGNIFILO: Thank you, Your Honor.

21 MR. INTRATER: Thank you, Your Honor.

22

23 (Matter adjourned to Tuesday, February 15, 2022 at
24 9:30 a.m.)

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I N D E X

WITNESS

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ANDY TAI

DIRECT EXAMINATION

BY MS. SMITH

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